

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

The Blain Trust, by and through its Successor Trustees,  
The Estate of Claude A. Blain, by and through its Executor, and  
Serge Blain, Marc Blain, Charles Blain, and Philippe Blain, in their  
capacity as designated beneficiaries of the Blain Trust, the Estate of  
Claude A. Blain, and the accounts known as LPL account numbers  
1263-0686, and 1392-5065

03-02949  
Dallas, Texas

and

Name of Respondents

Linsco/Private Ledger Corp.  
William B. Schorn, Jr.

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Nature of the Dispute: Customer vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

The Blain Trust, by and through its Successor Trustees, the Estate of Claude A. Blain, by and through its Executor, and Serge Blain, Marc Blain, Charles Blain, and Philippe Blain, in their capacity as designated beneficiaries of the Blain Trust, the Estate of Claude A. Blain, and the accounts know as LPL account numbers 1363-0686, and 1392-5065 ("The Blain Trust") were represented by Brenda Kay Brown, Esq., Dallas Texas.

Linsco/Private Ledger Corp. ("Respondent LPL") and William B. Schorn, Jr. ("Respondent Schorn")(collectively as the "Respondents") were represented by D. Craig Brinker, Esq., Henslee, Fowler, Hepworth & Schwartz LLP, Dallas, Texas.

**CASE INFORMATION**

The Statement of Claim was filed on or about April 22, 2003. Motion for Leave to Amend was filed on or about April 28, 2004. First Amended Statement of Claim was filed on or about April 28, 2004. Submission Agreement of Claimant Charles Blain was signed on or about May 18, 2003. Submission Agreement of Claimant Serge Blain was signed on or about May 18, 2003. Submission Agreement of Claimant Philippe Blain was signed on or about May 18, 2003.

Answer to Statement of Claim of Respondents Linsco/Private Ledger Corp. and William B. Schorn, Jr. was filed on or about July 10, 2003. Submission Agreement of Linsco/Private Ledger Corp. was signed on or about May 27, 2003 by Stephine L. Brown. Submission Agreement of William B. Schorn, Jr. was signed on or about November 11, 2003.

### **CASE SUMMARY**

Claimants asserted the following causes of action: violations of Rule 10b-5—lack of suitability, violations of Rule 10b-5—material misrepresentations and omissions, breach of fiduciary duty, unauthorized trading, churning, breach of contract, negligent misrepresentations and gross negligence, common law fraud, failure to properly supervise, failure to utilize or enforce policy on suitability, and respondeat superior. Claimant alleged in the First Amended Statement of Claim:

In early 2000, despite knowing that Dr. Blain was grieving, was reluctant to hold risk-oriented individual stocks and had expressed desires for more secure capital preservation, Schorn continued to buy technology and biotech stocks. From about June to September 2000, Dr. Blain traveled to Canada as he usually did each year for three or four months to visit the place where he was born. Upon Dr. Blain's return, he began to sort through his investment assets that his wife had previously handled, and then reviewed his quarterly account statements for the IRA account handled by Schorn. Dr. Blain was alarmed and concerned with the amount of drop in value. Dr. Blain's portfolio at this point consisted mostly of Nasdaq stocks and was declining rapidly.

Dr. Blain called Schorn immediately to ask him to explain what had happened, why the portfolio was almost exclusively in risky Nasdaq stocks of which Dr. Blain had never heard, and to request that Schorn move the remaining funds into larger, well known companies listed on the New York Stock Exchange. But Schorn again placated Dr. Blain insisting that he "was making money for Dr. Blain," that he "was beating the S&P," "not to worry because he could double Dr. Blain's money if Dr. Blain was just patient," and then Schorn continued to buy and sell Nasdaq stocks completely ignoring Dr. Blain's concerns and investment objectives.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated that Claimant's allegations are baseless. Respondents deny that they engaged in any reckless or negligent conduct, and deny that they made any misrepresentations or omissions in connection with any securities investments. Respondents deny all claims of wrongdoing, negligence, breach of contract and liability, and deny that they are in any way responsible for any of the claims asserted by Claimants. Respondents did not at any point violate any NASD rules, any section of the Securities Exchange Act, any rule promulgated thereunder, any federal or state laws governing investment advisors, or any state securities or consumer protection laws. Respondent LPL at all times properly supervised Respondents.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of \$2,050,000.00 in compensatory damages, and \$2,050,00.00 in exemplary damages, plus costs and attorneys' fees.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

By letter dated August 3, 2004, the parties' were advised of the Arbitration Panel's ruling on Claimants' Motion for Leave to Amend as follows:

The Panel held a telephonic conference August 2, 2004, and after discussing the matter, ruled to grant all the changes and revisions spelled out in the letter.

The Panel met on December 21, 2004 and made the following rulings:

The Respondent made a motion dated December 13, 2004 regarding time barred claims. The Panel discussed the matter and decided the motion to dismiss was moot. They therefore denied the motion.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, if any, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Linsco/Private Ledger Corp. and William B. Schorn, Jr. shall be and hereby are jointly and severally liable for and shall pay to Claimants, The Blain Trust, the sum of \$208,000 (**Two Hundred Eight Thousand Dollars and No Cents**) as compensatory damages.
2. Interest at the legal rate in the State of Texas is awarded on the above sum from and inclusive of April 22, 2003 to and inclusive of December 22, 2004.

3. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$600.00

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is Linsco/Private Ledger Corp.

Member surcharge	\$	2,800.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	5,000.00
Total Member Fees	\$	8,550.00

#### **Adjournment Fees**

Adjournments requested during these proceedings:

June 2-4, 2004, adjournment requested by Claimants (waived) = \$1,200.00

#### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

2	Pre-hearing session(s) with Panel	x	1,200.00	\$	2,400.00
	December 5, 2003	1	session		
	June 2, 2004	1	session		
12	Hearing sessions	x	1,200.00	\$	14,400.00
	October 11, 2004	2	sessions		
	October 12, 2004	3	sessions		
	October 13, 2004	2	sessions		
	December 13, 2004	2	sessions		
	December 14, 2004	2	sessions		
	December 15, 2004	1	sessions		
	Total Forum Fees			\$	16,800.00

The Arbitration Panel has assessed \$8,400.00 of the forum fees to The Blain Trust.  
The Arbitration Panel has assessed \$8,400.00 of the forum fees jointly and severally to Linsco/Private Ledger Corp. and William B. Schorn, Jr.

#### Fee Summary

Claimants, The Blain Trust, shall be and hereby is liable for:

Initial Filing Fee	= \$	600.00
<u>Forum Fees</u>	= \$	8,400.00
Total Fees	= \$	9,000.00
<u>Less payments</u>	= \$	-1,800.00
Balance Due NASD Dispute Resolution	= \$	7,200.00

Respondent, Linsco/Private Ledger Corp., shall be and hereby is liable for:

Member Fees	= \$	8,550.00
Total Fees	= \$	8,550.00
<u>Less payments</u>	= \$	-8,550.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, Linsco/Private Ledger Corp. and William B. Schorn, Jr., shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	8,400.00
Total Fees	= \$	8,400.00
<u>Less payments</u>	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	8,400.00

**All balances are due to NASD Dispute Resolution**

**ARBITRATION PANEL**

Irwin S. Sugerman - Public Arbitrator, Presiding Chair  
Jennifer Brock Calhoun, JD - Public Arbitrator  
Earle A. Shields, Jr. - Non-Public Arbitrator

**Concurring Arbitrators:**

/s/ Irwin S. Sugarman  
Irwin S. Sugerman  
Public Arbitrator, Presiding Chair

12/23/04  
Signature Date

/s/ Jennifer Brock Calhoun  
Jennifer Brock Calhoun, JD  
Public Arbitrator

12/22/04  
Signature Date

/s/ Earle A. Shields, Jr.  
Earle A. Shields, Jr.  
Non-Public Arbitrator

12/22/04  
Signature Date

12-23-04  
Date of Service (For NASD office use only)

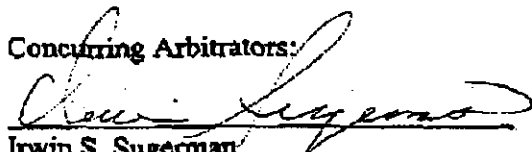
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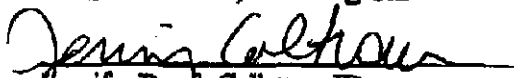
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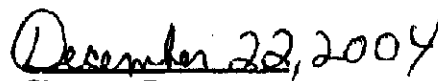
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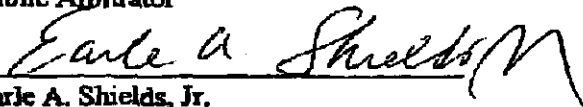
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