

AWARD

9608119

**NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION**

In the Matter of the Arbitration Between

**Name of Claimant**

Kevin C. Walsh

9544106

**Name of Respondent**

Waterhouse Securities Inc.

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Securities Dealers, Inc.

**REPRESENTATION**

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For Claimant: Kevin C. Walsh ("Walsh") appeared pro se.

For Respondent: Waterhouse Securities Inc. ("Waterhouse") was represented by Robert F. X. Bohrer, First Vice President, Waterhouse Securities Inc., New York, New York.

**CASE INFORMATION**

Statement of Claim filed: August 28, 1995.

Claimant's Submission Agreement signed on: August 20, 1995.

Statement of Answer filed by Respondent on: November 16, 1995.

Respondent's Submission Agreement signed on: November 17, 1995 by Arnold J. Feest, Senior Vice President, Waterhouse Securities Inc.

**HEARING INFORMATION**

Pre-Hearing Conference: August 19, 1996 for One (1) sessions before One (1) arbitrator.

Hearing Date/Sessions: August 22, 1996 for One (1) session.

Hearing Location: Chicago, Illinois.

**CASE SUMMARY**

Claimant alleged that Waterhouse executed his sell order for 200 shares of U. S. Robotics Corp. ("USRX") even though he had immediately canceled the order after making it.

Respondent denied the material allegations of the Statement of Claim, asserting that Walsh's order to sell was properly and timely executed, and that Walsh failed to mitigate damages by

repurchasing the shares immediately upon knowing that the sell order had been executed.

**RELIEF REQUESTED**

Claimant Walsh requested entry of an award for damages in the sum of \$9,005.10. Walsh amended his request by asking for specific performance and damages of \$19,905.10.

Respondent Waterhouse denied that it was liable to Walsh for damages in any amount.

**OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

**AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Waterhouse Securities Inc. is liable for and shall pay to the Claimant, Kevin C. Walsh, the sum of \$4,500.00 as actual damages;
2. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those specifically enumerated herein; and
3. Any relief not specifically awarded is hereby denied.

**OTHER COSTS**

Respondent Waterhouse Securities Inc. is liable for and shall pay to the NASD Regulation, Inc., Office of Dispute Resolution the sum of \$200.00 as the member surcharge required pursuant to Section 10333 of the NASD Code of Arbitration Procedure.

**FORUM FEES**

Pursuant to Section 10332(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed: One (1) pre-hearing session before One (1) arbitrator x \$300.00 per session = \$300.00; One (1) Hearing session x \$300.00 per session = \$300.00; Total Forum Fees = \$600.00.

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The NASD Regulation, Inc. Office of Dispute Resolution shall retain the \$100.00 non-refundable claim filing fee and refund the \$300.00 hearing session deposit previously paid by the Claimant, Kevin C. Walsh. Respondent Waterhouse Securities Inc. is liable for and shall pay to the NASD Regulation Inc., Office of Dispute Resolution the sum of \$600.00 as forum fees.

Fees are payable to the NASD Regulation, Inc., Office of Dispute Resolution.

Arbitrator's Signature

Name

Date

/s/ Stephen James Naev, Esq.

August 28, 1996

Stephen James Nagy, Esq.

Public Arbitrator

For NASD Use Only

Date of Decision: August 29, 1996