

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Carol Snyder Halberstadt (Claimant) vs. E\*Trade Securities, Inc. (Respondent)

Case Number: 99-02591

Hearing Site: Boston, Massachusetts

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**REPRESENTATION OF PARTIES**

Claimant, Carol Snyder Halberstadt, hereinafter referred to as "Claimant": Robert D. Hillman, Esq., Deutsch Williams Brooks DeRensis Holland & Drachman, P.C., Boston, MA.

Respondent, E\*Trade Securities, Inc., hereinafter referred to as "Respondent": Eric E. Bronson, Esq., Bird, Marella, Boxer & Wolpert, Los Angeles, CA.

**CASE INFORMATION**

Statement of Claim filed on or about: September 30, 1999.

Opposition to Motion to Dismiss filed by Claimant on or about: March 10, 2000.

Claimant signed the Uniform Submission Agreement: May 13, 1999.

Statement of Answer and Motion to Dismiss filed by Respondent on or about: December 30, 1999.

Respondent signed the Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: failure to execute Claimant's order to purchase shares in Ebay, Inc. ("Ebay") stock at its initial public offering ("IPO") price; negligence; and mishandling of account.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: as a matter of law, Respondent had no legal duty to accept Claimant's order; Claimant would not have been eligible to participate in the Ebay IPO because of her lack of investment experience and her investment objectives as indicated on her account application; Claimant's own delay in submitting an application to open an account with Respondent precluded her participation in the Ebay IPO; Claimant was specifically advised that her participation in the Ebay IPO was not guaranteed; Claimant failed to mitigate her damages by ever attempting to purchase shares of Ebay in the secondary market; and the Statement of Claim fails to state a claim upon which Respondent could be held liable.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$112,050.00, plus interest from April 1999 until the date of the Panel's decision, and punitive damages.

Respondent requested that Claimant's Statement of Claim be dismissed in its entirety, and that it be awarded its costs and forum fees in this matter.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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.

### **AWARD**

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

1. Claimant's claims are hereby dismissed in their entirety.
2. All other requests for relief are hereby denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee = \$ 300.00

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, E\*Trade Securities, Inc. is a party.

Member surcharge = \$1,500.00  
Pre-hearing process fee = \$ 600.00  
Hearing process fee = \$2,500.00

**Forum Fees and Assessments**

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

Two (2) Pre-hearing sessions with Panel x \$1,125.00 = \$2,250.00

Pre-hearing conferences: August 21, 2000 1 session  
October 4, 2000 1 session

One (1) Hearing session x \$1,125.00 = \$1,125.00

Hearing Date: December 13, 2000 1 session

**Total Forum Fees = \$3,375.00**

1. The Panel has assessed \$1,687.50 of the forum fees against Claimant.

2. The Panel has assessed \$1,687.50 of the forum fees against Respondent.

**Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$1,687.50</u>
Total Fees	= \$1,987.50
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 562.50

2. Respondent be and hereby is solely liable for:

Member Fees	= \$4,600.00
<u>Forum Fees</u>	<u>= \$1,687.50</u>
Total Fees	= \$6,287.50
<u>Less payments</u>	<u>= \$4,600.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,687.50

All balances are due and payable to NASD Dispute Resolution, Inc.


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**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Walter A. Clebowicz, Esq.  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Nancy E. Watters, Esq.  
Public Arbitrator


12/31/00  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Francis A. Sullivan  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)

**Concurring Arbitrators' Signatures**

  
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Walter A. Clebowicz, Esq.  
Public Arbitrator, Presiding Chair

1-16-2001  
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Signature Date

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Nancy E. Watters, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

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Francis A. Sullivan  
Industry Arbitrator

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Signature Date

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NASD Dispute Resolution, Inc.  
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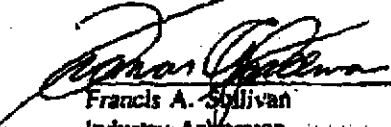
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Public Arbitrator, Presiding Chair

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Signature Date

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Nancy E. Watters, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

  
Francis A. Sullivan  
Industry Arbitrator

12/29/2000  
Signature Date

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Francis A. Sullivan  
Industry Arbitrator

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Date of Service (For NASD office use only)

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Date of Service (For NASD office use only)