

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Semyon Varshavchik, (Claimant) vs. E*Trade Securities, Inc., (Respondent)

Case Number: 99-04325

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, Semyon Varshavchik, hereinafter referred to as "Claimant": Anthony J. Ferrara, Esq., Polstein, Ferrara, Dwyer & Speed, P.C., New York, NY.

Respondent, E*Trade Securities, Inc., hereinafter referred to as "Respondent": Mark T. Drooks, Esq., Bird, Marella, Boxer & Wolpert, Los Angeles, CA.

CASE INFORMATION

Statement of Claim filed on or about: September 17, 1999.
Claimant's Response to Motion to Dismiss filed on or about: January 13, 2000.
Claimant signed the Uniform Submission Agreement: September 17, 1999.

Statement of Answer and Motion to Dismiss filed by Respondent on or about: November 23, 1999.

Respondent signed the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: Claimant was denied the opportunity to participate in the initial public offering ("IPO") of Red Hat, Inc. stock and Respondent rejected, without explanation, Claimant's application to participate in the IPO.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim fails to state a claim upon which Respondent could be held liable; Claimant failed to mitigate his damages; Claimant was specifically advised that his participation in the Red Hat, Inc. IPO was not guaranteed and depended on his establishing eligibility to Respondent's satisfaction; and Respondent had no legal duty to accept Claimant's purchase order.

RELIEF REQUESTED

Claimant requested lost opportunity damages in the amount of \$32,400.00. Claimant also requested additional damages in the amount of \$22,500.00 in the event Red Hat, Inc. Stock fell below \$75.00 a share or, alternatively, an award directing Respondent to transfer 300 shares of Red Hat, Inc. stock to Claimant. Claimant further requested an award of forum fees, attorneys' fees, and the costs of this action.

Respondent requested that the Statement of Claim be dismissed in its entirety and that Claimant take nothing by his claim. Respondent also requested that it be awarded its costs and forum fees in this matter.

OTHER ISSUES CONSIDERED AND DECIDED

During the hearings in this matter, Respondent made a Motion to Dismiss which was denied by the Panel.

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. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$14,800.00 as compensatory damages, plus interest in the amount of \$1,332.00.
2. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$10,000.00 as attorneys' fees, according to Claimant's request.
3. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$225.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution, Inc.
4. 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	= \$ 225.00
--------------------------	-------------

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	= \$1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,500.00

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 \$750.00	= \$1,500.00
Pre-hearing conferences: May 9, 2000 1 session	
May 18, 2000 1 session	
Two (2) Hearing sessions x \$750.00	= \$1,500.00
<u>Hearing Date: August 14, 2000 2 sessions</u>	
Total Forum Fees	= \$3,000.00

The Panel has assessed all of the forum fees against Respondent.

Fee Summary

1. Claimant be and hereby is solely liable for:

<u>Initial Filing Fee</u>	= \$ 225.00
<u>Total Fees</u>	= \$ 225.00
<u>Less payments</u>	= \$ 975.00
<u>Refund Due Claimant</u>	= \$ 750.00

As stated in the "Award" section above, Respondent is liable and shall reimburse Claimant for the \$225.00 filing fee.

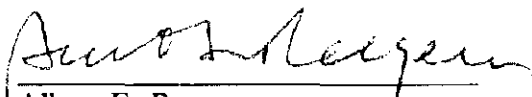
2. Respondent be and hereby is solely liable for:

<u>Member Fees</u>	= \$3,100.00
<u>Forum Fees</u>	= \$3,000.00
<u>Total Fees</u>	= \$6,100.00
<u>Less payments</u>	= \$1,600.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$4,500.00

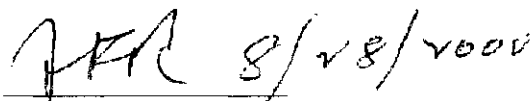
All balances are due and payable to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Albert F. Reegen
Public Arbitrator, Presiding Chair



Signature Date

Arthur J. Kresch
Public Arbitrator

Signature Date

Donald N. Cohen, Esq.
Industry Arbitrator

Signature Date

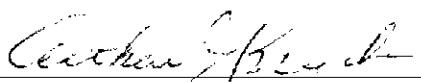
September 20, 2000
Date of Service (For NASD office use only)

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Albert F. Reegen
Public Arbitrator, Presiding Chair

Signature Date



Arthur J. Kresch
Public Arbitrator

8/28/00

Signature Date

Donald N. Cohen, Esq.
Industry Arbitrator

Signature Date

September 20, 2000

Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.
Arbitration No. 99-04325
Award Page 7

Concurring Arbitrators' Signatures

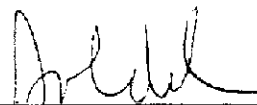
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Albert F. Reegen
Public Arbitrator, Presiding Chair

Signature Date

Arthur J. Kresch
Public Arbitrator

Signature Date



Donald N. Cohen, Esq.
Industry Arbitrator

Signature Date

September 20, 2000
Date of Service (For NASD office use only)