

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

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In the Matter of the Arbitration Between:

Alfa MDG Corporation, (Claimant) vs. E\*Trade Securities, Inc., (Respondent)

Case Number: 99-05193

Hearing Site: Boston, Massachusetts

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**REPRESENTATION OF PARTIES**

Claimant, Alfa MDG Corporation, hereinafter referred to as "Claimant": Philip M. Giordano, Esq., Giordano & Champa, P.A., Boston, MA.

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

**CASE INFORMATION**

Statement of Claim filed on or about: November 17, 1999.

Claimant signed the Uniform Submission Agreement: November 30, 1999.

Statement of Answer and Motion to Dismiss filed by Respondent on or about: February 28, 2000.

Respondent signed the Uniform Submission Agreement: March 8, 2000.

**CASE SUMMARY**

Claimant asserted the following causes of action: violations of federal and state securities laws; breach of contract; breach of fiduciary duty; fraud and deceit; negligent misrepresentation; breach of the duty of reasonable care and fair practice; breach of the duty to supervise; control person liability; and violation of M.G.L. c. 93A, Sections 2 and 9. Claimant's claim involved the stock of Netscape Communications Corporation.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant's Statement of Claim is vague and unintelligible; Claimant's Statement of Claim does not allege cognizable counts for relief; Claimant's Massachusetts statutory claims are barred by the choice of law provision in Claimant's customer agreement, which states that California law governs any dispute between the parties; and Claimant's breach of fiduciary duty count is barred because the parties were not fiduciaries.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$10,000.00, plus punitive damages, costs, attorneys' fees, and any additional relief which the Panel deems just and proper.

Respondent requested that Claimant's Statement of Claim be dismissed in its entirety, and that it be awarded costs, fees, and such other relief as the Panel deems appropriate. Alternatively, Respondent requested that the second, fourth, ninth, and tenth counts for relief in Claimant's Statement of Claim be dismissed without leave to amend.

### **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 Arbitrator 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	= \$ 75.00
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**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 = \$ 300.00

**Forum Fees and Assessments**

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

One (1) Pre-hearing session with a single arbitrator x \$250.00 = \$ 250.00  
Pre-hearing conference: March 1, 2001 1 session

Two (2) Hearing sessions x \$250.00 = \$ 500.00

Hearing Date: July 13, 2001 2 sessions

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Total Forum Fees = \$ 750.00

1. The Arbitrator has assessed \$375.00 of the forum fees against Claimant.
2. The Arbitrator has assessed \$375.00 of the forum fees against Respondent.

**Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 75.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 450.00
Less payments	= \$ 500.00
Refund due Claimant	= \$ 50.00

2. Respondent be and hereby is solely liable for:

Member Fees	= \$ 300.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 675.00
Less payments	= \$ 300.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 375.00

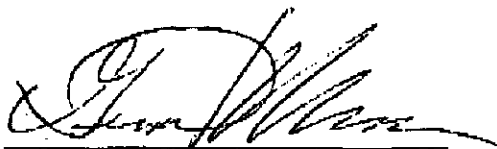
All balances are due and payable to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

Gerard S. Marsan, Esq.

- Public Arbitrator

**Arbitrator's Signature**



Gerard S. Marsan, Esq.  
Public Arbitrator

8/10/01  
Signature Date

August 21, 2001  
Date of Service (For NASD office use only)