

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Andrew W. Steeno

Case No. 00-00441

Name of Respondent

E*Trade Securities, Inc.

REPRESENTATION OF PARTIES

Claimant Andrew W. Steeno ("Steen") was represented by Matthew Robert Falk, Esq., of Domnitz, Mawicke & Goisman, S.C., located in Milwaukee, Wisconsin.

Respondent E*Trade Securities, Inc. ("E*Trade") was represented by Rachel M. Heald, Esq., of Bird, Marella, Boxer & Wolpert, located in Los Angeles, California.

CASE INFORMATION

Statement of Claim filed on or about: February 1, 2000.

Claimant signed the Uniform Submission Agreement: January 26, 2000.

Statement of Answer filed by Respondent on or about: March 31, 2000.

Respondent signed the Uniform Submission Agreement: May 16, 2000.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; unfair business practices in violation of California law (application of California law occurred because of the language of the account agreement); and misrepresentation. The causes of action relate to the Claimant's inability to execute stock transactions because E*Trade failed to maintain a redundant system capable of handling increased trading. This resulted in outages in February, 1999 which prevented Claimant from executing two trades.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant is barred from bringing the claim because he waived his rights under his contract; there is no factual basis to the claims; Claimant did not suffer any injury, and even if he did, E*Trade cannot be held liable for it.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant is barred from bringing the claim because he waived his rights under his contract; there is no factual basis to the claims; Claimant did not suffer any injury, and even if he did, E*Trade cannot be held liable for it.

RELIEF REQUESTED

Claimant(s) requested:

Compensatory Damages	\$ 27,568.00
Interest	\$ unspecified amount
Attorneys' Fees	\$ 500.00
Other Costs	\$ 700.00

plus any other relief the Panel deemed just and equitable.

Respondent requested that the Statement of Claim be dismissed in its entirety and that E*Trade be awarded its attorneys' fees, cost, forum fees and any other relief the panel deemed proper.

OTHER ISSUES CONSIDERED AND DECIDED

On March 30, 2000, Respondent filed a Motion to Dismiss, asserting that Steeno's claims were encompassed within a putative class action and that the claims should be dismissed pursuant to Rule 10301(d)(2) of the Code of Arbitration Procedure. In a response filed April 24, 2000, Steeno submitted an affidavit asserting that he would opt out of any certified class action that included the claims brought before the NASD Dispute Resolution forum. Pursuant to Rule 10301(d)(2) of the Code of Arbitration Procedure, the claim continued in arbitration as a result of Claimant's election to not participate in any class action.

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. The panel denies the claim in its entirety;
2. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those specifically enumerated herein;
3. Though the panel denies Claimant's claim in its entirety, the panel acknowledges that E*Trade was not completely faultless during the computer outages on February 3-5, 1999. In failing to communicate to its customers during the period of the outages, E*Trade was not acting in the best interests of its customers. Therefore the panel assesses all forum fees and filing fees in this matter against Respondent, E*Trade Securities, Inc.; and,
4. Any relief not specifically awarded is hereby denied.

outages on February 3-5, 1999. In failing to communicate to its customers during the period of the outages, E*Trade was not acting in the best interests of its customers. Therefore the panel assesses all forum fees and filing fees in this matter against Respondent, E*Trade Securities, Inc.; and,

4. Any relief not specifically awarded is 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 = \$ 150.00

The Panel directs the reimbursement of Claimant's initial claim filing fee by Respondent, E*Trade Securities, Inc.

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 event giving rise to the dispute. In this matter, the member firm is a party.

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

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 \$ 450.00 = \$ 450.00
Pre-hearing conference(s): June 28, 2000 1 session

Three (3) Hearing sessions x \$ 450.00 = \$ 1,350.00
Hearing Date(s): December 7, 2000 3 sessions

Total Forum Fees = \$ 1,800.00

The Arbitrator has assessed \$1,800.00 of the forum fees to Respondent E*Trade Securities, Inc.

Fee Summary

Claimant Andrew W. Steeno is hereby solely liable for:

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<u>Initial Filing Fee</u>	= \$ 150.00
<u>Total Fees</u>	= \$ 150.00
<u>Less payments</u>	= (600.00)
Balance Due Claimant Andrew W. Steeno as refund	= \$ 450.00

NASD Dispute Resolution, Inc. will refund this \$450 to Claimant. Additionally, Respondent E*Trade will reimburse the \$150 initial filing fee directly to Claimant.

Respondent E*Trade Securities, Inc. is hereby solely liable for:

<u>Member Fees</u>	= \$ 2,200.00
<u>Forum Fees</u>	= \$ 1,800.00
<u>Total Fees</u>	= \$ 4,000.00
<u>Less payments</u>	= \$ 2,200.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,800.00

With the exception of the initial filing fee reimbursement, payable directly to Claimant, all balances are due and payable to NASD Dispute Resolution, Inc.

Arbitrator's Signature

Kelly Ann Paxton
Kelly Ann Paxton
Public Arbitrator, Presiding Arbitrator

January 23, 2001
Signature Date

January 24, 2001
Date of Service

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Arbitrator's Signature



Kelly Ann Paxton
Public Arbitrator, Presiding Arbitrator

1/23/01

Signature Date