

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

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In the Matter of the Arbitration Between:  
Lester Lin, Claimant v. E\*Trade Securities, Inc., Respondent

Case Number: 00-03322

Hearing Site: San Francisco, California

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**REPRESENTATION OF PARTIES**

For Claimant:

Patrick McNamara, Esq.  
El Dorado Hills, California

For Respondent:

Ekwan E. Rhow, Esq.  
Bird, Marella, Boxer & Wolpert  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed on or about July 22, 2000

First Amended Statement of Claim filed on or about March 31, 2001

Claimant's Uniform Submission Agreement signed July 22, 2000

Respondent's Statement of Answer filed on or about October 5, 2000

Respondent's Uniform Submission Agreement signed September 20, 2000

**CASE SUMMARY**

Claimant alleged failure to execute, misrepresentation, failure to disclose, omission of material facts, breach of fiduciary duty, unauthorized trading, negligence, and violation of federal securities laws. Claimant's claims related to transactions involving America Online (AOL), Yahoo! (YHOO), eBay (EBAY), Equitex (EQTX), E\*Trade (EGRP), and Ameritrade (AMTD) stocks.

Respondent denied the allegations of wrongdoing set forth in Claimant's Statement of Claim.

**RELIEF REQUESTED**

In his First Amended Statement of Claim, Claimant summarized his request for damages as follows: direct damages in the amount of \$49,483.00; interest at a simple annual rate of 10%; and punitive damages in the amount of \$100,000.

Respondent requested dismissal of Claimant's Statement of Claim in its entirety.

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

The parties agreed that either the Award in this matter may be executed in counterpart copies, or a handwritten, signed Award may be entered.

### **AWARD**

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

- 1) Respondent shall pay to Claimant compensatory damages in the amount of \$23,919.00.
- 2) Respondent shall pay to Claimant interest of 10% per annum on the amount of \$23,919.00. Interest shall begin to accrue ten days after the date of service of this Award.
- 3) Each party shall bear its own costs, including attorney's fees.
- 4) All other relief not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. received or shall collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$300.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm E\*Trade Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$1,500.00
Pre-Hearing Process Fee	= \$600.00
Hearing Process Fee	= \$2,500.00
<b>Total Member Fees</b>	<b>= \$4,600.00</b>

#### **Adjournment Fees**

The following adjournment fees are assessed

Adjournment of the September 24-25, 2001. Hearing dates requested by Respondent  
= \$1,125.00

**Forum Fees and Assessments**

The Arbitrator/Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

4 Pre-hearing conference sessions with the Panel @ \$1,125/session = \$4,500.00

Pre-hearing conferences: April 11, 2001 1 session  
May 14, 2001 1 session  
August 20, 2001 1 session  
September 24, 2001 1 session

4 Hearing sessions @ \$1,125/session = \$4,500.00

Hearing: November 6-7, 2001 4 sessions

**Total Forum Fees = \$9,000.00**

The Panel assessed \$9,000.00 of the forum fees to Respondent.

**Fee Summary**

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$300.00
Total Fees	= \$300.00
Less Payments	= \$(1,575.00)
Refund due	= \$(1,275.00)

2. Respondent is charged with the following fees and costs:

Member Fees	= \$4,600.00
Adjournment Fee	= \$1,125.00
Forum Fees	= \$9,000.00
Total Fees	= \$14,725.00
Less Payments	= \$(5,725.00)
Balance Due NASD Dispute Resolution, Inc.	= \$9,000.00

All balances are payable to NASD Dispute Resolution, Inc., and are payable upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Isidoro Berkman, Esq.	-	Public Arbitrator, Presiding Chair
William L. Blaine, Esq.	-	Public Arbitrator
Anthony J. Nyberg	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Isidoro Berkman, Esq.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
William L. Blaine, Esq.  
Public Arbitrator

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

Anthony Nyberg  
Anthony J. Nyberg  
Non-Public Arbitrator

12/14/01  
Signature Date

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\_\_\_\_\_  
Date of Service

**ARBITRATION PANEL**

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William L. Blaine, Esq.	-	Public Arbitrator
Anthony J. Nyberg	-	Non-Public Arbitrator

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Isidoro Berkman, Esq.  
Public Arbitrator, Presiding Chair

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

William L. Blaine  
William L. Blaine, Esq.  
Public Arbitrator

19 Dec 91  
Signature Date

\_\_\_\_\_  
Anthony J. Nyberg  
Non-Public Arbitrator

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

**Date Served:**

**ELI**

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Date of Service