

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Don C. Foster, (Claimant) vs. E*Trade Securities, Inc., (Respondent)

Case Number: 00-04839

Hearing Site: Boston, Massachusetts

REPRESENTATION OF PARTIES

Claimant, Don C. Foster, hereinafter referred to as "Claimant", appeared *pro se*.

Respondent, E*Trade Securities, Inc., hereinafter referred to as "Respondent": David D. Leshner, Esq., Bird, Marella, Boxer & Wolpert, Los Angeles, CA.

CASE INFORMATION

Statement of Claim filed on or about: October 24, 2000.

Claimant signed the Uniform Submission Agreement: October 27, 2000.

Statement of Answer filed by Respondent on or about: January 29, 2001.

Respondent signed the Uniform Submission Agreement: January 29, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: unauthorized trades and improper margin calls. Claimant's claim involved the stock of Andover.net Inc.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant is responsible for orders executed in his account that exceed available funds; there is no evidence that anyone other than Claimant executed the trades in question; Claimant's trading pattern is entirely consistent with the two orders at issue; and Respondent performed according to its agreement with Claimant and in accordance with all applicable standards and rules.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$19,000.00, punitive damages in the amount of \$9,000.00, and the costs of this arbitration.

Respondent requested that the Statement of Claim be dismissed in its entirety and that it be awarded such other and further relief as is just and proper.

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	= WAIVED
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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	= \$ 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 arbitrators, including a pre-hearing conference with the arbitrators, 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: May 4, 2001	1 session

Two (2) Hearing sessions x \$450.00 = \$ 900.00

Hearing Date: July 12, 2001 2 sessions

Total Forum Fees = \$1,350.00

1. The Panel has assessed \$900.00 of the forum fees against Claimant.
2. The Panel has assessed \$450.00 of the forum fees against Respondent.

Fee Summary

1. Claimant be and hereby is solely liable for:

Forum Fees = \$ 900.00

Total Fees = \$ 900.00

Less payments = \$ 0.00

Balance Due NASD Dispute Resolution, Inc. = \$ 900.00

2. Respondent be and hereby is solely liable for:

Member Fees = \$2,200.00

Forum Fees = \$ 450.00

Total Fees = \$2,650.00

Less payments = \$1,200.00

Balance Due NASD Dispute Resolution, Inc. = \$1,450.00

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

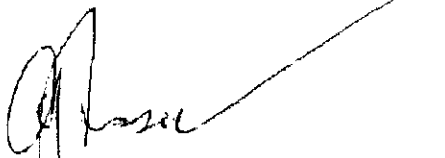
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ARBITRATION PANEL

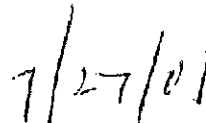
Albert G. Besser, Esq. -

Public Arbitrator

Arbitrator's Signature

A handwritten signature in dark ink, appearing to read 'A. Besser', written over a horizontal line.

Albert G. Besser, Esq.
Public Arbitrator

A handwritten date '7/27/01' in dark ink, written over a horizontal line.

Signature Date

August 1, 2001

Date of Service (For NASD office use only)