

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Abdul Al-Najem, Claimant v. E\*Trade Securities, Inc., Respondent

Case Number: 00-05134

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimant/Counter-Respondent:

Michael A. Oswald, Esq.  
Edward W. Russey, III, Esq.  
Oswald & Yap  
Irvine, California

For Respondent/Counter-Claimant:

John M. McCoy, Esq.  
Bird, Marella, Boxer & Wolper  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: November 14, 2000

Claimant Abdul Al-Najem's Uniform Submission Agreement signed: November 1, 2000

Statement of Answer and Counterclaim filed by E\*Trade Securities, Inc.:  
January 11, 2001

Respondent/Counter-claimant E\*Trade Securities, Inc.'s Uniform Submission Agreement signed:  
March 5, 2001

**CASE SUMMARY**

Claimant Abdul Al-Najem alleged breach of fiduciary duty, breach of contract, negligence, and unauthorized trades, involving unspecified securities.

In its Answer and Counterclaim, E\*Trade Securities, Inc. denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and alleged that Claimant owes an outstanding margin debit balance.

### **RELIEF REQUESTED**

Claimant Abdul Al-Najem requested \$57,000.00 in compensatory damages, unspecified punitive damages, and costs, including attorney's fees.

Respondent/Counter-claimant E\*Trade Securities, Inc. requested dismissal of the Claimant Abdul Al-Najem's Statement of Claim in its entirety, and sought \$20,317.19 for Claimant's alleged debit balance, plus interest, and costs, including attorney's fees.

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

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant Abdul Al-Najem's claims are denied in their entirety.
- 2) Claimant/Counter-Respondent Abdul Al-Najem is liable to and shall pay Respondent/Counter-claimant E\*Trade Securities, Inc. the sum of \$15,000.00 in compensatory damages.
- 3) The parties shall bear their respective 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 received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 225.00
Respondent E*Trade Securities, Inc.'s Counterclaim	filing fee = \$
750.00	

### **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	= \$ 1,000.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 1,500.00</u>
<b>Total Member Fees</b>	<b>= \$ 3,100.00</b>

### **Forum Fees and Assessments**

The 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:

1 Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: November 12, 2002 1 session	
1 Pre-hearing conference session with the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conference: June 19, 2002 1 session	
4 Hearing sessions @ \$750.00/session	= \$ 3,000.00
Hearings: December 9, 2002 2 sessions	
December 10, 2002 2 sessions	
<b>Total Forum Fees</b>	<b>= \$ 4,200.00</b>

1. The Panel assessed \$ 2,100.00 of the forum fees to Claimant Abdul Al-Najem.
2. The Panel assessed \$ 2,100.00 of the forum fees to Respondent / Counter-claimant E\*Trade Securities, Inc.

### **Fee Summary**

1. Claimant/Counter-Respondent Abdul Al-Najem is charged with the following fees and costs:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	<u>= \$ 2,100.00</u>
Total Fees	= \$ 2,325.00
<u>Less payments</u>	<u>= \$( 975.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,350.00</b>

2. Respondent/Counter-claimant E\*Trade Securities, Inc. is charged with the following fees and costs:

Counterclaim Filing Fee	= \$ 750.00
Member Fees	= \$ 3,100.00
Forum Fees	= \$ 2,100.00
Total Fees	= \$ 5,950.00
<u>Less payments</u>	<u>= \$(4,300.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,650.00</b>

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

**ARBITRATION PANEL**

Thomas A. Culbertson, Esq.	-	Public Arbitrator, Presiding Chair
Steven A. Wawra, Esq.	-	Public Arbitrator
Kenneth E. Kreh	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Thomas A. Culbertson, Esq.  
Chair, Public Arbitrator

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Signature Date

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Steven A. Wawra, Esq.  
Public Arbitrator

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Signature Date

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Kenneth E. Kreh  
Non-Public Arbitrator

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Signature Date

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Date of Service

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Chair, Public Arbitrator

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Signature Date

  
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Steven A. Wawra, Esq.  
Public Arbitrator

12.23.02  
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Signature Date

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Kenneth E. Kreh  
Non-Public Arbitrator

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Signature Date

12/24/02  
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Date of Service

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Arbitration No. 00-05134  
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Thomas A. Culbertson, Esq.  
Steven A. Wawra, Esq.  
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