

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Kambiz Maleki, Claimant and Counter-Respondent v. E*Trade Securities, Inc., Respondent and Counter-Claimant

Case Number: 01-00263

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant and Counter-Respondent:

Kambiz Maleki
In Propria Persona
Woodland Hills, California

For Respondent and Counter-Claimant:

Jennifer L. Coon, Esq.
Bird, Marella, Boxer & Wolpert
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: January 10, 2001

Claimant's Uniform Submission Agreement signed: January 6, 2001

Statement of Answer and Counterclaim filed by Respondent: March 19, 2001

Respondent's Uniform Submission Agreement signed: February 14, 2001

CASE SUMMARY

Claimant alleged breach of contract, misrepresentation, negligence, bad execution, and unauthorized trading involving the purchase and subsequent liquidation of shares in Ariba, Inc. (ARBA) in Claimant's margin account.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and filed a counterclaim alleging breach of contract and debit balance owed.

RELIEF REQUESTED

Claimant requested compensatory damages of \$62,238.00.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety and filed a counterclaim requesting payment of a debit balance of \$2,063.56, unspecified interest, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On October 12, 2001, E*Trade Securities, Inc. moved the Panel to permit telephonic testimony by its witness, Ron Simpson. On October 25, 2001, having considered the written submissions of the parties, the Panel granted the motion.

On October 29, 2001, the panel and the parties met for the first scheduled hearing session of this matter. At the commencement of the hearing, Kambiz Maleki moved the Panel to adjourn the hearing on the grounds that he wished to employ counsel. The Panel granted the adjournment.

On January 28, 2002, the panel and the parties held a pre-hearing conference at which time Kambiz Maleki stated he needed an additional 30 days to search for an attorney. The panel granted Claimant the additional time he requested.

On March 18, 2002, the panel and the parties held a pre-hearing conference. Kambiz Maleki appeared in propria persona. Jennifer Coon, Esq. appeared for E*Trade Securities, Inc. Also present was the full panel. Mr. Maleki stated that he was ready to move forward on the case without the assistance of counsel. Mr. Maleki then made a Motion for Reconsideration of the Panel's Order of October 25, 2001 permitting telephonic testimony of E*Trade's witness, Mr. Ron Simpson.

On June 10, 2002, the panel and the parties held a pre-hearing conference to discuss Kambiz Maleki's Motion for Reconsideration of the Panel's Order of October 25, 2001 and Mr. Maleki's request for orders of production and appearance. On July 3, 2002, the panel, having considered the oral arguments and written submissions of the parties, issued an Order of Appearance for Mr. Ron Simpson and directed E*Trade Securities, Inc. to have its employee, Mr. Sam Malas, available for telephonic testimony for Mr. Maleki's case in chief.

On July 12, 2002, the panel, having reviewed the written submissions of the parties, ruled that Kambiz Maleki shall pay the cost of Mr. Simpson's round-trip airfare and hotel room for one night.

On July 15, 2002, Kambiz Maleki moved the Panel to reconsider its ruling regarding the parties' accountability for the costs incurred by Mr. Simpson in traveling to the hearing. After due deliberation in an Executive Session of the evidence, witnesses, and testimony presented by the parties, the panel reversed its prior ruling and ordered E*Trade Securities, Inc. to pay all travel costs and expenses associated with bringing Mr. Simpson to the hearing.

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 Kambiz Maleki's claims are denied in their entirety.
- 2) Counter-Respondent Kambiz Maleki is liable to and shall pay Counter-Claimant E*Trade Securities, Inc. the sum of \$2,063.56.
- 3) E*Trade Securities, Inc. is liable to and shall reimburse Kambiz Maleki for any costs advanced by Mr. Maleki towards the airfare and/or hotel expenses of witness Ron Simpson.
- 4) Except as specifically set forth in paragraph 3, immediately above, the parties shall bear their respective costs, including attorney's fees.
- 5) All other relief requested and 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's Counterclaim	= \$ 300.00

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
Hearing Process Fee	= \$ 1,500.00
Total Member Fees	= \$ 3,100.00

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 or the parties and the Panel. The following fees are assessed:

Five (5) Pre-hearing conference sessions with the Panel @ \$750.00/session	= \$ 3,750.00
Pre-hearing conferences:	
July 24, 2001	1 session
October 29, 2001	1 session
January 28, 2002	1 session
March 18, 2002	1 session
June 10, 2002	1 session
Two (2) Hearing sessions @ \$750.00/session	= \$ 1,500.00
Hearings:	
July 15, 2002	2 sessions
Total Forum Fees	= \$ 5,250.00

1. The Panel assessed \$2,250.00 of the forum fees to Claimant Kambiz Maleki.
2. The Panel assessed \$2,250.00 of the forum fees to Respondent E*Trade Securities, Inc.

3. The Panel waived the \$750.00 forum fee for the January 28, 2002 pre-hearing conference.

Fee Summary

1. Claimant/Counter-Respondent Kambiz Maleki is charged with the following fees and costs:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,475.00
Less payments	= \$(975.00)
Balance Due NASD Dispute Resolution	= \$ 1,500.00

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

Counterclaim Filing Fee	= \$ 300.00
Member Fees	= \$ 3,100.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 5,650.00
Less payments	= \$(3,100.00)
Balance Due NASD Dispute Resolution	= \$ 2,550.00

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

Charles Ajamian	•	Public/Non-Public, Presiding Chair
Glen W. Hanne	•	Public/Non-Public Arbitrator
Joseph T. Donnamuoni	•	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Charles Ajamian
Charles Ajamian
Chair, Public Arbitrator

08-14-02
Signature Date

Glen W. Hanne
Glen W. Hanne
Public Arbitrator

Signature Date

Joseph T. Donnamuoni
Joseph T. Donnamuoni
Non-Public Arbitrator

Signature Date

8-15-02
Date of Service

ARBITRATION PANEL

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<i>Glen W. Hanne</i>	-	<i>Public/Non-Public Arbitrator</i>
<i>Joseph T. Donnantuoni</i>	-	<i>Non-Public Arbitrator</i>

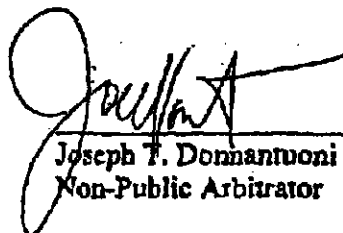
Concurring Arbitrators' Signatures

Charles Ajamian
Chair, Public Arbitrator

Signature Date

Glen W. Hanne
Public Arbitrator

Signature Date



Joseph T. Donnantuoni
Non-Public Arbitrator

8/14/02

Signature Date

8/15/02

Date of Service

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Signature Date


Glen W. Hanne
Public Arbitrator

8-14-02
Signature Date

Joseph T. Donnanuoni
Non-Public Arbitrator

Signature Date

8-15-02
Date of Service