

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

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In the Matter of the Arbitration Between:  
Ameritrade, Inc., Claimant v. Xintian Li, Respondent

Xintian Li, Counter-Claimant v. Ameritrade, Inc., Counter-Respondent

Case Number: 01-00740

Hearing Site: Honolulu, Hawaii

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**REPRESENTATION OF PARTIES**

For Claimant:

James J. Vihstadt, Esq.  
Ameritrade, Inc.  
Bellevue, Nebraska

For Respondent:

Curtis M. Kam, Esq.  
Law Offices of Richard Lee  
Honolulu, Hawaii

**CASE INFORMATION**

Statement of Claim filed: February 5, 2001

Claimant/Counter-Respondent's (hereinafter Claimant) Uniform Submission Agreement signed:  
February 5, 2001

Statement of Answer and Counterclaim filed by Respondent/Counter-Claimant Xintian Li  
(hereinafter Respondent): May 1, 2001

Respondent Xintian Li's Uniform Submission Agreement signed: March 29, 2001

**CASE SUMMARY**

Claimant alleged failure to deposit adequate funds to secure BIOM stock which resulted in the liquidation of securities.

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

In her Counterclaim, Respondent alleged common law fraud, misrepresentation, and violations of NASD Rule 2210, 15 U.S.C. §45, the Securities Exchange Act of 1934, and §10(b), 15 U.S.C.A. §78j(b), et seq.

Claimant did not file a Statement of Answer to Respondent's Counterclaim.

#### **RELIEF REQUESTED**

Claimant requested actual damages of \$70,170.22, interest, and reimbursement for arbitration costs.

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

In her Counterclaim, Respondent requested unspecified compensatory damages, and reimbursement for attorney's fees, and arbitration costs.

#### **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's claims are denied in their entirety.
- 2) Respondent's counterclaims are denied their entirety.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) 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, Inc. received or will collect the non-refundable filing fees for each claim as follows:

|                                      |               |
|--------------------------------------|---------------|
| Initial claim filing fee             | = \$ 1,000.00 |
| Respondent's Counterclaim filing fee | = \$ 250.00   |

#### **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 which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Ameritrade, 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>= \$ 2,000.00</u> |
| <b>Total Member Fees</b>   | <b>= \$ 3,600.00</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 Panel. The following fees are assessed:

|   |                      |
|---|----------------------|
| 1 Pre-hearing conference session with the Panel @ \$ 1,000.00/session | = \$1,000.00         |
| Pre-hearing conference:      October 17, 2001      1 session          |                      |
| 2 Hearing sessions @ \$ 1,000.00/session                              | = \$ 2,000.00        |
| Hearing:      March 20, 2002      2 sessions                          |                      |
| <b>Total Forum Fees</b>   | <b>= \$ 3,000.00</b> |

The Panel assessed \$ 3,000.00 of the forum fees to Claimant Ameritrade, Inc.

**Fee Summary**

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

|   |                |
|---|----------------|
| Initial Filing Fee                        | = \$ 1,000.00  |
| Member Fees                               | = \$ 3,600.00  |
| Forum Fees                                | = \$ 3,000.00  |
| Total Fees                                | = \$ 7,600.00  |
| Less payments                             | = \$(4,350.00) |
| Balance Due NASD Dispute Resolution, Inc. | = \$ 3,250.00  |

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

|   |             |
|---|-------------|
| Counterclaim filing fee                   | = \$ 250.00 |
| Balance Due NASD Dispute Resolution, Inc. | = \$ 250.00 |

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

**ARBITRATION PANEL**

|                       |   |                                    |
|-----------------------|---|------------------------------------|
| David J. Anderson     | - | Public Arbitrator, Presiding Chair |
| Dane L. Miller        | - | Public Arbitrator                  |
| Randy A. Harris, Esq. | - | Non-Public Arbitrator              |


**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
David J. Anderson  
Chair, Public Arbitrator

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

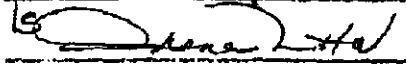
\_\_\_\_\_  
Dane L. Miller  
Public Arbitrator

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

  
\_\_\_\_\_  
Randy A. Harris, Esq.  
Non-Public Arbitrator

4/10/02  
\_\_\_\_\_  
Signature Date

State of Hawaii )  
City and County of Hon) ss  
Subscribed and sworn to before me this (By Randy A. Harris)  
10th day of April, 2002

  
\_\_\_\_\_  
My Commission expires:

IGENE MITTA  
NOTARY PUBLIC, FIRST JUDICIAL CIRCUIT  
State of Hawaii  
Commission Expires 9/1/2002

4/15/02  
\_\_\_\_\_  
Date of Service

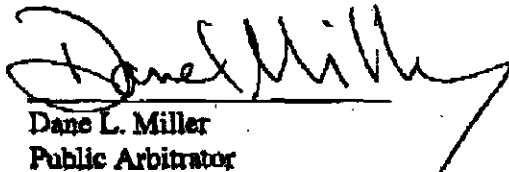
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4/15/02  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Randy A. Harris, Esq.  
Non-Public Arbitrator

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

4/15/02  
\_\_\_\_\_  
Date of Service

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)  
) SS.  
)

On this 15th day of April, 2002, before me personally appeared DANE L. MILLER,  
to me known to be the person described in and who executed the foregoing instrument and  
acknowledge that he executed the same as his free act and deed.

LS



Notary Public, State of Hawaii

FERN Y. F. KASHIWAMURA

Printed Name of Notary

My commission expires: 10/1/2003