
Amended Award
NASD DISPUTE RESOLUTION

In the Matter of the Arbitration Between:

Name of Claimant

James M. McEntyre, IRA

Case Number: 01-01534

Name of Respondent

E*Trade Securities, Inc.

Hearing Site: Tampa, FL

REPRESENTATION OF PARTIES

For James M. McEntyre, IRA, hereinafter referred to as "Claimant": James M. McEntyre, Sarasota, FL.

For E*Trade Securities, Inc. ("E*Trade"), hereinafter referred to as "Respondent": John Bersin, Assistant General Counsel, E*Trade, Rancho Cordova, CA.

CASE INFORMATION

Statement of Claim filed on or about: March 27, 2001.

Claimant signed the Uniform Submission Agreement: April 9, 2001.

Statement of Answer filed by Respondent on or about: May 18, 2001.

Respondent signed the Uniform Submission Agreement: April 25, 2001.

Respondent's Motion to Dismiss ("Motion to Dismiss") filed on or about: November 5, 2001.

Claimant's Response to the Motion to Dismiss filed on or about: November 8, 2001.

Respondent's Motion to Dismiss ("Second Motion to Dismiss") filed on or about: December 11, 2001.

Respondent's Motion for Sanctions ("Motion for Sanctions") filed on or about: August 8, 2003.

Claimant's Response to the Motion for Sanctions filed on or about: August 18, 2003.

Respondent's Reply to Claimant's Response to the Motion for Sanctions filed on or about: August 18, 2003.

CASE SUMMARY

Claimant asserted that Respondent failed to have Claimant's stock certificate representing 3300 shares of Alliance Capital Management reissued pursuant to Claimant's instructions.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted that Respondent could not verify that Claimant delivered the stock certificate to Respondent.

RELIEF REQUESTED

Claimant requested compensatory damages of \$4,000.00, punitive damages of \$1,000.00, and/or reissuance of Claimant's stock certificate plus reimbursement of costs.

Respondent requested dismissal of the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

On or about October 11, 2001, pursuant to Rule 10321(e) of the NASD Code of Arbitration Procedure (the "Code"), Arbitrator Nodine issued an order (the "Order") which compelled Claimant to produce to Respondent some, but not all, of the documents Respondent requested from Claimant.

On or about November 13, 2001, Arbitrator Nodine issued an order in response to Respondent's Motion to Dismiss for Claimant's willful failure to comply with the Order, which stated, in pertinent part, that "In the event that the Claimant should fail to comply with [the Order], his Complaint will be deemed dismissed with prejudice."

On or about January 2, 2002, Arbitrator Nodine issued an order in response to Respondent's Second Motion to Dismiss which dismissed Claimant's Statement of Claim, with prejudice, for failure to comply with Arbitrator Nodine's orders.

On or about May 16, 2002, an Award was entered which dismissed Claimant's Statement of Claim, with prejudice, based upon Claimant's willful and intentional material failure to comply with the Arbitrator's discovery orders. On or about January 6, 2003, Judge Preston DeVilbiss, Jr. of the County Court of the 12th Judicial Circuit in and for Sarasota County, Florida, entered an Order Vacating Award and directed Claimant to re-arbitrate his claim before Arbitrator Nodine.

During the evidentiary hearing, Respondent moved for sanctions against Claimant. Arbitrator Nodine took the matter under advisement.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrator (the "Arbitrator") has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable for negligence and shall pay to Claimant compensatory damages in the sum of \$4,754.67 less the sum of \$1,000.00 representing the sanction for abuse of the discovery process for a total due to Claimant of \$3,754.67.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 50.00

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. Accordingly, E*Trade is a party.

Member surcharge = \$ 200.00

Total Member Fees = \$ 200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

October 23, 2001, adjournment by Respondent. The adjournment fee was waived by the Arbitrator.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were assessed during these proceedings.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the Panel, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator @ \$125.00 = \$ 250.00

Pre-hearing conferences: August 27, 2001 1 session
June 19, 2003 1 session

One (1) Hearing session @ \$125.00 = \$ 125.00

Hearing Date: August 28, 2003 1 session

Total Forum Fees = \$ 375.00

The Arbitrator has assessed the total forum fees of \$375.00 to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

NASD Dispute Resolution

Arbitration No. 01-01534

Award Page 4 of 4

No administrative costs were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 50.00
<u>Total Fees</u>	= \$ 50.00
<u>Less payments</u>	= \$ 50.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent is solely liable for:

<u>Member Fees</u>	= \$ 200.00
<u>Forum Fees</u>	= \$ 375.00
<u>Total Fees</u>	= \$ 575.00
<u>Less payments</u>	= \$ 200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 375.00

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

ARBITRATION PANEL

William E. Nodine, Esq.

- Public Arbitrator

Arbitrator's Signature

/s/

William E. Nodine, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

September 12, 2003

Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
 Arbitration No. 01-01534
Award Page 4 of 4

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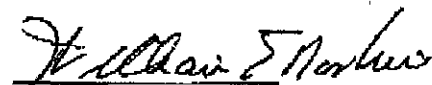
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ARBITRATION PANEL

William E. Nodine, Esq.

Public Arbitrator

Arbitrator's Signature



William E. Nodine, Esq.
 Public Arbitrator, Presiding Chairperson

SEPTEMBER 12, 2003
 Signature Date

Date of Service (For NASD Dispute Resolution office use only)