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

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In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 02-06497

Angelo Barrera & Rosalina J. Barrera JTWROS  
Rickie Crawley & Angelo Barrera JTWROS  
Ashley Magee  
Angelo Barrera  
Jennifer Crawley  
Maria I. Barrera  
Naomi Barrera  
Rosa J. Johnston & Angelo Barrera JTWROS

Name of the Respondent

Hearing Site: Orlando, Florida

E\*Trade Securities, LLC

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**REPRESENTATION OF PARTIES**

For Angelo Barrera & Rosalina J. Barrera JTWROS; Rickie Crawley & Angelo Barrera JTWROS; Ashley Magee; Angelo Barrera; Jennifer Crawley; Maria I. Barrera; Naomi Barrera; and Rosa J. Johnston & Angelo Barrera JTWROS, collectively referred to as "Claimants": Angelo Barrera, Merritt Island, Florida.

For E\*Trade Securities, LLC, referred to as "Respondent": John Bersin, Assistant General Counsel with Respondent, Rancho Cordova, California.

**CASE INFORMATION**

Statement of Claim filed on or about: September 30, 2002.

Claimants signed the Uniform Submission Agreement on: August 24, 2002.

Statement of Answer filed by Respondent on or about: December 26, 2002.

Respondent signed the Uniform Submission Agreement on: December 24, 2002.

**CASE SUMMARY**

Claimant alleged the following causes of action: 1) breach of contract; 2) errors/charges; 3) sale of non-existing securities; 4) collection errors; 5) negligence; 6) failure to remit dividends and interest; 7) failure to supervise; 8) fraud; 9) breach of fiduciary duty; 10) misrepresentation/non-disclosures; 11) falsifying IRS submissions; 12) unauthorized trading; 13) unauthorized withdrawals; 14) defamation of character; 15) defect in Respondent's Answer; and 16) failure to safeguard securities. The causes of action relate to investments in various shares of

common stock and securities, including Pharma Patch, PLC; Appletree Companies, Inc.; Sport Sciences, Inc.; and Atlantic Central Enterprises

Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

**RELIEF REQUESTED**

Claimant requested: 1) compensatory damages in the amount of \$675.00 for unpaid bonuses; 2) compensatory damages in the amount of \$44,938.60 in connection with stock investments; 3) punitive damages in the amount of \$10,000,000.00; 4) sanctions; 5) costs; and 6) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent requested: 1) dismissal of the Statement of Claim in its entirety; 2) assessment of costs and expenses of the arbitration proceeding against Claimants; and 3) such other relief the Panel deemed just and proper.

**OTHER ISSUES CONSIDERED AND DECIDED**

Claimants Rickie Crawley, Ashley Magee and Jennifer Crawley did not appear at the evidentiary hearing.

At the evidentiary hearing, Claimants moved the Panel to strike Respondent's Answer. The Panel denied the motion.

At the evidentiary hearing, Claimants moved the Panel for the entry of a default judgment. The Panel denied the motion.

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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims, including any statutory claims, are denied in their entirety.
2. Claimants' requests for punitive damages and sanctions are denied.
3. Claimants are jointly and severally liable and shall pay to Respondent costs in the amount of \$2,000.00
4. Any and all claims for relief not specifically addressed herein are denied.

**FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

**Filing Fees**

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

Initial claim filing fee = \$ 600.00

**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, Respondent E\*Trade is a member firm and a party.

Member surcharge = \$3,750.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$5,500.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

**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.

There were no injunctive relief fees 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 arbitrators, 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 Panel @ \$1,200.00 per session = \$2,400.00

Pre-hearing conferences: April 21, 2003 1 session  
June 10, 2003 1 session

Five (5) Hearing sessions @ \$1,200.00 per session = \$6,000.00

Hearing Dates: July 29, 2003 3 sessions  
July 30, 2003 2 sessions

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Total Forum Fees = \$8,400.00

The Panel has assessed forum fees in the amount of \$4,200.00 to Claimant Angelo Barrera.  
The Panel has assessed forum fees in the amount of \$4,200.00 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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

The total costs of security for the evidentiary hearing is in the amount of \$550.00. The Panel assessed \$275.00 of the costs of security jointly and severally to Claimants and \$275.00 of the costs of security to Respondent.

**Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
<u>Administrative Costs</u>	= \$ 275.00
Total Fees	= \$ 875.00
<u>Less payments</u>	= \$ 600.00
Balance Due NASD	= \$ 275.00

Claimant Angelo Barrera is solely liable for:

<u>Forum Fees</u>	= \$ 4,200.00
Total Fees	= \$ 4,200.00
<u>Less payments</u>	= \$ 1,200.00
Balance Due NASD	= \$ 3,000.00

Respondent is solely liable for:

Member Fees	= \$10,000.00
Administrative Costs	= \$ 275.00
<u>Forum Fee</u>	= \$ 4,200.00
Total Fees	= \$14,475.00
<u>Less payments</u>	= \$10,000.00
Balance Due NASD	= \$ 4,475.00

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

**ARBITRATION PANEL**

<i>James H. Frank, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Benjamin L. Abramowitz</i>	-	<i>Public Arbitrator</i>
<i>Richard M. Kowalske</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/s/\_\_\_\_\_  
James H. Frank, Esq.  
Public Arbitrator, Presiding Chairperson

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August 11, 2003  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Benjamin L. Abramowitz  
Public Arbitrator

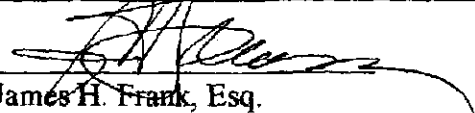
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August 11, 2003  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Richard M. Kowalske  
Non-Public Arbitrator

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August 11, 2003  
Signature Date

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August 15, 2003  
Date of Service (For NASD use only)

Concurring Arbitrators' Signatures

  
James H. Frank, Esq.  
Public Arbitrator, Presiding Chairperson

AUG 11 2003

Signature Date

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Benjamin L. Abramowitz  
Public Arbitrator

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Signature Date

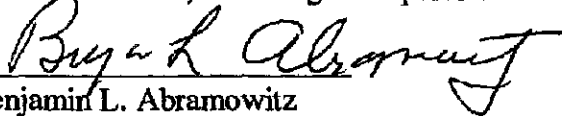
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Richard M. Kowalske  
Non-Public Arbitrator

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Signature Date

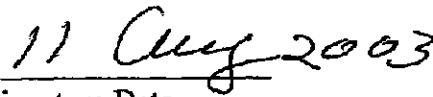
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Public Arbitrator, Presiding Chairperson

  
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Benjamin L. Abramowitz  
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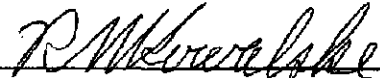
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Signature Date

  
Richard M. Kowalske  
Non-Public Arbitrator

August 11, 2003  
Signature Date

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