

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:
Leonard Barshack, Claimant v. E*Trade Securities, Inc., Respondent

Case Number: 03-04482

Hearing Site: Salt Lake City, Utah

Nature of Dispute: Customer v. Member

REPRESENTATION OF PARTIES

For Claimant:

James R. Laski, Esq.,
Lawson & Laski, PLLC
Ketchum, Idaho

For Respondent:

John Bersin, Esq.
E*Trade Securities LLC
Rancho Cordova, California

CASE INFORMATION

Statement of Claim filed: June 18, 2003

Claimant's Uniform Submission Agreement signed: June 17, 2003

Statement of Answer filed by Respondent: August 20, 2003

Respondent's Uniform Submission Agreement signed: July 1, 2003

CASE SUMMARY

Claimant alleged negligence and failure to execute an order for the purchase of 10,000 shares of United Internet AG (UDIRF) at the price of \$5.00 per share.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the sum of \$106,500.00 or, in the alternative, the delivery of 10,000 shares of United Internet AG (UDIRF) at the price of \$5.00 per share, to Claimant by Respondent and costs.

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

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, the Panel granted Claimant's Motion to Amend the Statement of Claim to include a claim for attorney's fees based on Idaho Code 12-120(3).

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) Respondent is liable to and shall pay Claimant the sum of \$26,000.00 in compensatory damages.
- 2) Respondent is liable to and shall pay Claimant the sum of \$6,000.00 in attorney's fees, pursuant to Idaho Code 12-120(3).
- 3) The parties shall bear their respective costs.
- 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 received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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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, LLC is a party and the following fees are assessed:

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$2,750.00
Total Member Fees	= \$5,200.00

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 Panel/Chair. The following fees are assessed:

(2) Pre-hearing conference sessions with the Chair @ \$ 450.00/session	= \$ 900.00
Pre-hearing conferences: February 20, 2004	1 session
February 24, 2004	1 session
(1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: November 6, 2003	1 session
(4) Hearing sessions @ \$1,125.00/session	= \$4,500.00
Hearings: March 15, 2004	2 sessions
March 16, 2004	2 sessions
Total Forum Fees	= \$6,525.00

1. The Panel assessed \$3,262.50 of the forum fees to Claimant Leonard Barshack.
2. The Panel assessed \$3,262.50 of the forum fees to Respondent E*Trade Securities, LLC.

Fee Summary

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

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 3,262.50
Total Fees	= \$ 3,562.50
Less payments	= \$(1,425.00)
Balance Due NASD Dispute Resolution	= \$ 2,137.50

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

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 3,262.50
Total Fees	= \$ 8,462.50
Less payments	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$ 3,262.50

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

A. Robert Thorup	-	Public Arbitrator, Presiding Chair
A. O. Headman, Jr., Esq.	-	Public Arbitrator
Karen K. Holstrom	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures:



A. Robert Thorup
Chair, Public Arbitrator

March 17, 2004
Signature Date

A. O. Headman, Jr., Esq.
Public Arbitrator

Signature Date

Karen K. Holstrom
Non-Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

A. Robert Thorup	-	Public Arbitrator, Presiding Chair
A. O. Headman, Jr., Esq.	-	Public Arbitrator
Karen K. Holstrom	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

A. Robert Thorup
Chair, Public Arbitrator



A. O. Headman, Jr., Esq.
Public Arbitrator

Signature Date

3/29/04

Signature Date

Karen K. Holstrom
Non-Public Arbitrator

Signature Date

March 29, 2004
Date of Service

ARBITRATION PANEL

A. Robert Thorup	-	Public Arbitrator, Presiding Chair
A. O. Headman, Jr., Esq.	-	Public Arbitrator
Karen K. Holstrom	-	Non-Public Arbitrator

Consenting Arbitrators' Signatures

A. Robert Thorup
Chair, Public Arbitrator

Signature Date

A. O. Headman, Jr., Esq.
Public Arbitrator

Signature Date


Karen K. Holstrom
Non-Public Arbitrator

3-22-04
Signature Date

Date of Service