

NASD DISPUTE RESOLUTION AWARD

NASD DISPUTE RESOLUTION

CASE: 04-00766

Brendon Wachter, Claimant v. E*Trade Securities, LLC, Respondent.

ATTORNEYS:

Claimant, Brendon Wachter, ("Claimant"), appeared pro se, Chicago, IL.

Respondent, E*Trade Securities, LLC, ("Respondent"), appeared through its in-house counsel, John Bersin, Esq., Rancho Cordova, CA.

NATURE OF DISPUTE: Customer v. Member

DATE FILED: February 4, 2004

CASE SUMMARY: Claimant alleged that Respondent negligently failed to inform American Century of the sale of his shares in TWCUX on January 29, 2003, which led to Respondent's misrepresentation of his account balance. Claimant further alleged that Respondent committed errors by executing a "Buy-In" instead of a "Physical Over-Issuance." Claimant maintained that due to Respondent's actions, his account suffered financial losses.

ARBITRATOR'S REPORT: Please find attached.

Claim Data

Claim: \$2,932.37
Filing Fees: \$175.00
Other: Unspecified

Award Data

Award: \$240.00
Filing Fees: \$175.00
Other: \$.00

AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Respondent is liable and shall pay to the Claimant \$240.00. 2) All other relief requests are denied. 3) NASD Dispute Resolution shall retain the \$175.00 filing fee that the Claimant deposited previously. 4) Respondent is liable and shall pay to the Claimant \$175.00 as reimbursement of the filing fee.

OTHER FEES: Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Dispute Resolution the \$200.00 Member Surcharge previously invoiced.

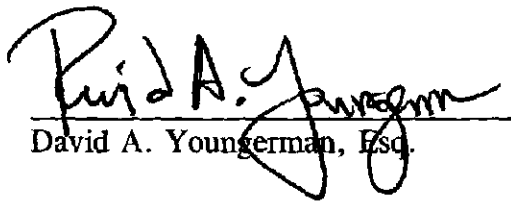
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Award 04-00766

ARBITRATOR

David A. Youngerman, Esq. - Sole Public Arbitrator

AFFIRMATION

I, David A. Youngerman, Esq., do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.


David A. Youngerman, Esq.

July 19, 2004
Signature Date

July 28, 2004
Date of Service (For NASD-DR office use only)

NASD DISPUTE RESOLUTION

In the Matter of the Arbitration
Between

Brandon Wachter,

Claimant

Case No. 04-00766

vs.

E*Trade Securities, LLC

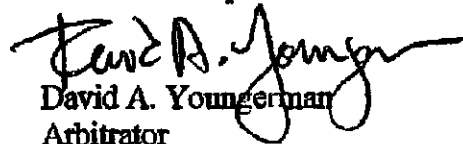
Respondent

Arbitrator's Explanation of Award and Relief

Respondent erroneously transferred an American Century account belonging to a third party to Claimant's newly created E*Trade account. It is clear that this mistake was due to a typographical error, and that the mistaken transfer was undetected for more than four months by all parties concerned -- American Century, E*Trade, Claimant and the third party. Respondent's liability flows from this account error.

Claimant's claim to reinstate the transferred amount to his account is denied. There is no evidence that Respondent failed to execute trades or that it manipulated Claimant's account. Nor is there evidence that Respondent intentionally misled Claimant with respect to the disputed funds or that Claimant had any ownership interest in those funds.

Claimant, however, incurred financial losses when Respondent remedied its error by transferring the mistakenly-deposited funds from Claimant's account to that of the third party. It is undisputed that Claimant was charged \$20.00 for each of the five transactions that Respondent executed in Claimant's account to reinstate those funds to the third party. Claimant was also charged \$20.00 for each of the two sales he made to reallocate his own funds when the mistakenly-transferred funds were withdrawn from his account. Therefore, Claimant is awarded \$140.00 in damages for these transactions, which were the direct result of Respondent's error. Claimant is also awarded \$100.00 for his inconvenience in having to quickly and unexpectedly reallocate his account. Respondent is also ordered to pay Claimant's filing fees as well as those of Respondent.


David A. Youngerman
Arbitrator

AFFIRMATION

STATE OF Illinois

COUNTY OF Cook

ss:

I, David A. Youngman do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument which is my oath and award.

David A. Youngman
Signature of Arbitrator

DATE OF DECISION: June 29, 2004