

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Susan L. Stickney, Claimant v. E* Trade Securities, LLC and E*Trade Clearing, LLC,
Respondents

Case Number: 04-02986

Hearing Site: Portland, Oregon

Nature of the Dispute: Customer v. Members

REPRESENTATION OF PARTIES

For Claimant:

Steven M. Cyr, Esq.
Legal Representation, LLC
Portland, Oregon

For Respondents:

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

CASE INFORMATION

Statement of Claim filed: April 19, 2004

Claimant's Uniform Submission Agreement signed: April 16, 2004

Joint Statement of Answer filed by Respondents: June 8, 2004

Respondent E*Trade Clearing, LLC 's Uniform Submission Agreement signed: June 2, 2004

Respondent E*Trade Securities, LLC 's Uniform Submission Agreement signed: None
submitted.

CASE SUMMARY

In her Statement of Claim, Claimant alleged that Respondents issued an unsolicited ATM card in connection with Claimant's account. Claimant alleged further that the ATM card was stolen by her daughter-in-law, Tammy Stickney, and used to withdraw money from Claimant's account without Claimant's consent.

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

RELIEF REQUESTED

Claimant requested \$12,304.00 in compensatory damages.

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

OTHER ISSUES CONSIDERED AND DECIDED

Respondent E*Trade Securities, LLC did not file with NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, is bound by the determination of the Arbitrator on all issues submitted.

At the outset of the hearing, the Parties stipulated to proceed with the hearing without a recording or a transcript of the proceeding.

The Parties agreed that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, testimony, and evidence presented at the hearing, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents are jointly and severally liable to and shall pay Claimant the sum of \$11,805.00 in compensatory damages.
- 2) Respondents are jointly and severally liable to and shall pay Claimant interest in the amount of 9% per annum on \$11,805.00 from November 1, 2003, until payment of this Award is made in full.
- 3) Respondents are jointly and severally liable to and shall pay Claimant the sum of \$2,500.00 in attorney's fees, pursuant to 15 USC §1953m(a)(3).
- 4) Respondents are jointly and severally liable to and shall pay Claimant the sum of \$125.00 as reimbursement for filing costs.
- 5) Except as noted above, the parties shall bear their respective costs.
- 6) 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	= \$ 125.00
--------------------------	-------------

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 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:

<u>Member Surcharge</u>	= \$ 425.00
Total Member Fees	= \$ 425.00

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 that gave rise to the dispute, claim, or controversy. Accordingly, the member firm E*Trade Clearing, LLC is a party and the following fees are assessed:

<u>Member Surcharge</u>	= \$ 425.00
Total Member Fees	= \$ 425.00

Forum Fees and Assessments

The Arbitrator 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 Chair. The following fees are assessed:

(1) Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: September 16, 2004 1 session	

(1) Hearing session @ \$450.00/session	= \$ 450.00
Hearing: January 12, 2005 1 session	

Total Forum Fees	= \$ 900.00
-------------------------	--------------------

The Arbitrator assessed \$900.00 of the forum fees jointly and severally to Respondents.

Fee Summary

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

Initial Filing Fee	= \$ 125.00
<u>Less payments</u>	= \$(575.00)
Refund Due Claimant	= \$ 450.00

2. Respondent E*Trade Securities, LLC is charged with the following fees and costs:

Member Fees	= \$ 425.00
<u>Less payments</u>	= \$(425.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent E*Trade Clearing, LLC is charged with the following fees and costs:

Member Fees	= \$ 425.00
<u>Less payments</u>	= \$(425.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents E*Trade Securities, LLC and E*Trade Clearing, LLC are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$ 900.00
Balance Due NASD Dispute Resolution	= \$ 900.00

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.

ARBITRATOR

Andrew K. Chenoweth, Esq.

-

Public Arbitrator, Presiding Chair

Arbitrator's Signature



Andrew K. Chenoweth, Esq.
Chair, Public Arbitrator

1-31-05
Signature Date

1/31/05
Date of Service