

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Tyrone M. Ball

and

04-05292  
Chicago, Illinois

Name of Respondents

Southwest Securities, Inc.  
EXT ELECTRONIC EXCHANGE TRADING, INC.

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Nature of the Dispute: Customer vs. Members.

**REPRESENTATION OF PARTIES**

Tyrone M. Ball ("**Claimant**") appeared *pro se*.

Southwest Securities, Inc. ("**Respondent SWS**") was represented by Steven R. Pitzner, Esq., Roach LLP, Plano, Texas.

EXT ELECTRONIC EXCHANGE TRADING, INC. ("**Respondent EXT**") was represented by Richard Albert, Long Grove, Illinois, a principal who failed to appear at the hearing or respond to the Amended Statement of Claim.

**CASE INFORMATION**

The Statement of Claim was filed on or about July 23, 2004. Letter dated February 10, 2005 responding to Motion to Dismiss of Southwest Securities, Inc. Submission Agreement of Claimant Tyrone M. Ball was signed on July 1, 2004.

Original Answer of Southwest Securities, Inc., Motion to Dismiss, and Motion to Transfer was filed on or about September 9, 2004. Response to Response of Southwest Securities to Respondent's Motion to Dismiss and Motion to Transfer was filed on or about October 19, 2004. Southwest Securities, Inc. Request for Default Judgment for Claimant Ball against EXT Exchange Trading; SWS Motion for Dismissal of SWS from these Proceedings; and SWS response to Miscellaneous Matter re: Ball was filed on or about March 11, 2005. Submission Agreement of Respondent Southwest Securities, Inc. was signed on August 13, 2004.

### **CASE SUMMARY**

Claimant alleged that his account was charged erroneous commissions and charged higher than usual amounts of margin interest.

Respondent SWS specifically stated:

All of the claims are for alleged errors and/or omissions (i.e. commission overcharges and/or margin interest overcharges) involving EXT and not SWS. SWS as a clearing firm only had contractual privity with EXT for which it received a small fee on the referenced EXT account for clearing trades and maintaining account records for EXT and for receiving some portion of the margin interest. All commissions and/or margin interest was paid directly to Claimant to EXT and any claims for overcharges of such amounts is owed, if at all, by EXT to Claimant and not by SWS.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$28,250.

Respondent SWS requested that the claims asserted against it be dismissed.

### **OTHER ISSUES CONSIDERED & DECIDED**

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrator has determined that Respondent EXT ELECTRONIC EXCHANGE TRADING, INC., has been properly served with the Amended Statement of Claim pursuant to Rule 10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent EXT ELECTRONIC EXCHANGE TRADING, INC. has received due notice of the hearing as required under Rule 10315 of the Code and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

Respondent EXT ELECTRONIC EXCHANGE TRADING, INC. did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the Code and is bound by the determination of the arbitration panel on all issues submitted.

By Order dated February 11, 2005, the Motion to Add EXT Exchange Trading as a party was granted.

Order dated April 4, 2005 wherein the Motion to Dismiss of SWS was denied.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, if any, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Southwest Securities, Inc. and EXT ELECTRONIC EXCHANGE TRADING, INC. are jointly and severally liable for and shall pay to Claimant Tyrone M. Ball the sum of \$17,500.00 (**Seventeen Thousand Five Hundred Dollars and No Cents**) as compensatory damages.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

### **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 = \$150.00

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) are Southwest Securities, Inc. and EXT ELECTRONIC EXCHANGE TRADING, INC.

|                         |    |          |
|-------------------------|----|----------|
| Member surcharge        | \$ | 600.00   |
| Pre-hearing process fee | \$ | 750.00   |
| Hearing process fee     | \$ | 1,000.00 |
| Total Member Fees       | \$ | 2,350.00 |

### **Adjournment Fees**

Adjournments requested during these proceedings:

Hearing Date(s), April 4 & 5, 2005 adjournment requested by Southwest Securities, Inc. = \$450.00

### **Forum Fees and Assessments**

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

|   |   |   |          |    |          |
|---|---|---|----------|----|----------|
| 2 | Pre-hearing session(s) with a single arbitrator | x | \$450.00 | \$ | 900.00   |
|   | November 16, 2004                               | 1 | session  |    |          |
|   | April 4, 2005                                   | 1 | session  |    |          |
| 1 | Hearing session                                 | x | 450.00   | \$ | 450.00   |
|   | August 29, 2005                                 | 1 | session  |    |          |
|   | Total Forum Fees                                |   |          | \$ | 1,350.00 |

The Arbitration Panel has assessed \$1,350.00 of the forum fees jointly and severally to Southwest Securities, Inc. and EXT ELECTRONIC EXCHANGE TRADING, INC.

### **Fee Summary**

Claimant, Tyrone M. Ball, is liable for:

|   |      |          |
|---|------|----------|
| Initial Filing Fee                                | = \$ | 150.00   |
| Total Fees  | = \$ | 150.00   |
| <u>Less payments</u>                              | = \$ | -600.00  |
| Balance to be refunded by NASD Dispute Resolution | = \$ | - 450.00 |

Respondent, Southwest Securities, Inc., is liable for:

|                                     |      |           |
|-------------------------------------|------|-----------|
| Member Fees                         | = \$ | 2,350.00  |
| Adjournment Fee                     | = \$ | 450.00    |
| Total Fees                          | = \$ | 2,800.00  |
| <u>Less payments</u>                | = \$ | -2,350.00 |
| Balance Due NASD Dispute Resolution | = \$ | 450.00    |

Respondents, Southwest Securities, Inc., and EXT ELECTRONIC EXCHANGE TRADING, INC. are jointly and severally liable for:

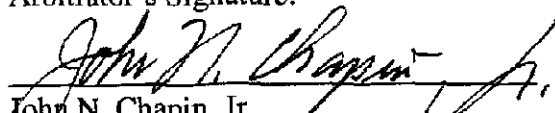
|                                     |      |          |
|-------------------------------------|------|----------|
| <u>Forum Fees</u>                   | = \$ | 1,350.00 |
| Total Fees                          | = \$ | 1,350.00 |
| <u>Less payments</u>                | = \$ | -0.00    |
| Balance Due NASD Dispute Resolution | = \$ | 1,350.00 |

All balances are due to NASD Dispute Resolution

**ARBITRATOR**

John N. Chapin, Jr. - Public Arbitrator, Presiding Chair

Arbitrator's Signature:

  
John N. Chapin, Jr.  
Public Arbitrator, Presiding Chair

  
Signature Date

8/29/05  
Date of Service (For NASD office use only)