

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

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In the Matter of the Arbitration Between:

Name of the Claimant  
E\*Trade Securities, LLC

Case Number: 04-06015

Names of the Respondents  
Bin Ke  
International United Business, Inc.

Hearing Site: Washington, D.C.

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Nature of the Dispute: Member vs. Customers.

**REPRESENTATION OF PARTIES**

Claimant, E\*Trade Securities, LLC, hereinafter referred to as "Claimant", was represented by John Bersin, Esq., E\*Trade Securities, LLC, Rancho Cordova, California.

Respondents, Bin Ke and International United Business, Inc. ("IUBI"), hereinafter collectively referred to as "Respondents", were represented by Bin Ke, Vienna, Virginia.

**CASE INFORMATION**

Statement of Claim filed on August 24, 2004.

A representative of Claimant executed the Uniform Submission Agreement on August 20, 2004.

Statement of Answer and Counterclaim filed by Respondent Bin Ke on October 18, 2004.

Statement of Answer and Counterclaim filed by Respondent IUBI on October 13, 2004.

Respondent Bin Ke signed the Uniform Submission Agreement on October 4, 2004.

A representative of Respondent IUBI executed the Uniform Submission Agreement on October 4, 2004.

Claimant filed a Reply to Respondents' Counterclaims on October 20, 2004.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted a cause of action for breach of contract. The cause of action relates to a customer agreement entered into by Claimant and Respondents.

Unless specifically admitted in his Statement of Answer, Respondent Bin Ke denied the allegations made in the Statement of Claim.

Unless specifically admitted in its Statement of Answer, Respondent IUBI denied the allegations made in the Statement of Claim.

Respondent Bin Ke, in his Counterclaim against Claimant, asserted a cause of action for failure to supervise.

Respondent IUBI, in its Counterclaim against Claimant, asserted a cause of action for breach of agreement and violations of federal SEC and NASD security laws.

Unless specifically admitted in its Reply to the Respondents' Counterclaims, Claimant denied the allegations set forth in the Counterclaims.

### **RELIEF REQUESTED**

Claimant in the Statement of Claim requested compensatory damages in the amount of \$ 42,088.04; attorneys' fees; interest; costs; and that the Arbitration Panel (the "Panel") issue an order declaring that Claimant is authorized to use the cash in Respondent IUBI's restricted account to pay the debt of Respondent Bin Ke's individual account.

In his Counterclaim, Respondent Bin Ke requested:

Compensatory Damages	\$ 167,867.00
Other Costs	amount unspecified

In its Counterclaim, Respondent IUBI requested:

Compensatory Damages	\$ 139,000.00
Punitive Damages	\$ 50,000.00
Interest	amount unspecified
Other Costs	amount unspecified

Claimant requested that the Respondents' Counterclaims be denied.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Bin Ke is liable to and shall pay to Claimant the sum of \$ 42,088.04 in compensatory damages, plus simple interest at the judgment rate in California accruing from the date of the award until the award is paid in full;
2. The Panel has granted Claimant's request for an order declaring that Claimant is authorized to use the cash in Respondent IUBI's restricted account to pay the debt of Respondent Bin

Ke's individual account;

3. Respondents' Counterclaims are denied in their entirety;
4. The parties shall bear their respective costs, except as Fees are specifically addressed below;  
and
5. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

### **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	= \$ 1,000.00
Counterclaim filing fee	= \$ 300.00

#### **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, Claimant is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 1,000.00

#### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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:

One (1) Pre-hearing session with a single arbitrator @ 450.00	= \$ 450.00
Pre-hearing conference: April 14, 2005 1 session	

One (1) Pre-hearing session with Panel @ \$ 1,125.00	= \$ 1,125.00
Pre-hearing conference: March 28, 2005 1 session	

Two (2) Hearing sessions @ \$ 1,125.00	= \$ 2,250.00
Hearing Date: September 27, 2005 2 sessions	
Total Forum Fees	= \$ 3,825.00

1. The Panel has assessed \$ 1,912.50 of the forum fees to Claimant.

2. The Panel has assessed \$ 1,912.50 of the forum fees jointly and severally to Respondents.

**Fee Summary**

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$	1,000.00
Member Fees	= \$	2,625.00
Forum Fees	= \$	1,912.50
Total Fees	= \$	5,537.50
Less payments	= \$	4,075.00
Balance Due NASD Dispute Resolution	= \$	1,462.50

2. Respondent Bin Ke is assessed and shall pay:

Filing Fee	= \$	300.00
Total Fees	= \$	300.00
Less payments	= \$	300.00
Balance Due NASD Dispute Resolution	= \$	0.00

3. Respondent IUBI is assessed and shall pay:

Filing Fee	= \$	300.00
Total Fees	= \$	300.00
Less payments	= \$	0.00
Balance Due NASD Dispute Resolution	= \$	300.00

4. Respondents are jointly and severally assessed and shall pay:

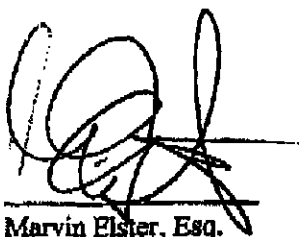
Forum Fees	= \$	1,912.50
Total Fees	= \$	1,912.50
Less payments	= \$	1,125.00
Balance Due NASD Dispute Resolution	= \$	787.50

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

**ARBITRATION PANEL**

Marvin Elster, Esq.	-	Public Arbitrator, Presiding Chairperson
Joseph A. Kenary, Esq.	-	Public Arbitrator, Panelist
Robert H. Boorman, Jr.	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Marvin Elster, Esq.  
Public Arbitrator, Presiding Chairperson

Sept 28, 2005  
Signature Date

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Joseph A. Kenary, Esq.  
Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

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Robert H. Boorman, Jr.  
Non-Public Arbitrator, Panelist

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Signature Date

September 29, 2005  
Date of Service (For NASD Dispute Resolution office use only)

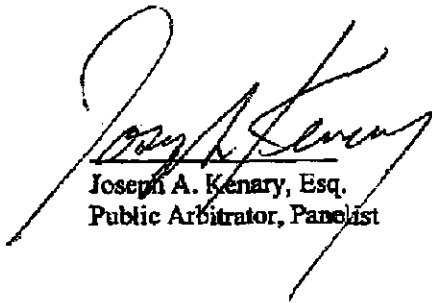
**Concurring Arbitrators' Signatures**

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Marvin Elster, Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date



Joseph A. Kenary, Esq.  
Public Arbitrator, Panelist

9-28-05

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Signature Date

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Robert H. Boorman, Jr.  
Non-Public Arbitrator, Panelist

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Signature Date

September 29, 2005

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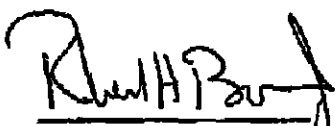
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Non-Public Arbitrator, Panelist

9/28/05  
Signature Date

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