

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

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In the Matter of the Arbitration Between:  
Lien Tang, Claimant v. Cybertrader, Inc., Respondent

Case Number: 04-08141

Hearing Site: San Francisco, California

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Nature of the Dispute: Customer vs. Member

**REPRESENTATION OF PARTIES**

For Claimant:

Lien Tang, Vincent Tang  
San Jose, California

For Respondent:

Brandon K. Hemley  
Charles Schwab & Co. Inc.  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed: October 27, 2004

Claimant's Uniform Submission Agreement signed: December 2, 2004

Statement of Answer filed by Respondent Cybertrader, Inc. ("CyberTrader"): February 4, 2005

Respondent CyberTrader's Uniform Submission Agreement signed: February 4, 2005

**CASE SUMMARY**

Claimant alleged that she suffered damages because of Respondent's wrongful liquidation of shares of Industrial Services of America, Inc. stock with respect to Claimant's account.

Respondent denied Claimant's allegations of wrongdoing and denied any liability to Claimant. Respondent also asserted affirmative defenses.

**RELIEF REQUESTED**

Claimant requested damages in the amount of \$10,000.00.

Respondent requested:

1. Dismissal of Claimant's claims in their entirety;
2. Costs; and
3. Such other relief as the Panel may deem proper.

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

On January 11, 2005, Claimant signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100 the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

During the phone conference held March 29, 2005, Arbitrator, Mark R. Harris granted Claimant's request to amend her claim to seek damages in the amount of \$10,000.00.

### **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) All claims by Claimant are dismissed.
- 2) Respondent CyberTrader is liable to and shall pay Claimant the sum of \$125.00 as reimbursement for Claimant's filing fee.
- 3) Except as mentioned above, each party shall bear its own costs, including attorney's fees.
- 4) All other relief not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD-DR received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$125.00
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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, CyberTrader is a party and the following fees are assessed:

Member Surcharge	= \$425.00
Total Member Fees	= \$425.00

### **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 Chair/Panel. The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$250.00/session	= \$250.00
Pre-hearing conference: March 29, 2005 1 session	
(1) Hearing session @ \$250.00/session	= \$250.00
Hearing: May 10, 2005 1 session	
<b>Total Forum Fees</b>	<b>= \$500.00</b>

The Panel assessed \$250.00 of the forum fees to Claimant.

The Panel assessed \$250.00 of the forum fees to Respondent.

### **Fee Summary**

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

Initial Filing Fee	= \$ 125.00
Forum Fees	= \$ 250.00
Total Fees	= \$ 375.00
Less Payments	= \$( 575.00)
Refund Due Claimant	= \$( 200.00)

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

Member Fees	= \$ 425.00
Forum Fees	= \$ 250.00
Total Fees	= \$ 675.00
Less Payments	= \$( 425.00)
Balance Due NASD-DR	= \$ 250.00


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

ARBITRATION PANEL

Mark R. Harris

- Public Arbitrator, Presiding Chair

Presiding Arbitrator's Signature



Mark R. Harris  
Chair, Public Arbitrator

5-13-05

Signature Date

5/16/05

Date of Service