

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

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In the Matter of the Arbitration Between:

Sulastri Gunawan, Claimant v. Ameritrade, Inc. and J.P. Securities, Inc., Respondents

Case Number: 05-01777

Hearing Site: Los Angeles, California

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Nature of the Dispute: Customer v. Members

**REPRESENTATION OF PARTIES**

For Claimant Sulastri Gunawan:

Nicholas Ng  
Global Foods Inc.  
Chino, California

For Respondent Ameritrade, Inc.  
and J.P. Securities, Inc.:

James J. Vihstadt  
Ameritrade, Inc.  
Bellevue, Nebraska

**CASE INFORMATION**

Initial Statement of Claim filed: April 1, 2005

Claimant's Uniform Submission Agreement signed: April 10, 2005

Statement of Answer filed by Respondent Ameritrade, Inc.: June 14, 2005

Respondent Ameritrade, Inc.'s Uniform Submission Agreement signed: June 14, 2005

Respondent J.P. Securities, Inc.'s Uniform Submission Agreement signed:  
June 14, 2005

**CASE SUMMARY**

Claimant alleged breach of fiduciary duty, misrepresentation, and failure to execute.  
Claimant's allegations concerned securities in FLYI and NPGS.

Respondent Ameritrade, Inc. denied the allegations of wrongdoing set forth in Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested \$50,000.00 in compensatory damages, interest, and costs.

Respondent Ameritrade, Inc. requested dismissal of Claimant's Statement of Claim and costs.

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

During the hearing, Claimant dismissed J.P. Securities, Inc. without prejudice.

During the hearing, Claimant moved to amend her Statement of Claim, requesting that the amount of damages requested regarding her claim of the short sale and buy cover of the NPGS stock be increased from \$3,390.00 to \$4,272.00 in compensatory damages. The Arbitrator granted Claimant's Motion to Amend.

### **FINDINGS**

The Arbitrator finds that Claimant failed to prove the allegations asserted concerning the FLYI stock, the Regulation T margin call, and the sale of 2,910 shares of NPGS stock. The Arbitrator finds that the evidence is sufficient to sustain the allegations of Claimant's claim regarding the short sale and buy cover of the NPGS stock.

### **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) Respondent Ameritrade, Inc. is liable to and shall pay Claimant Sulastri Gunawan the sum of \$4,272.00 in compensatory damages.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) 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 = \$ 175.00

#### **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 Ameritrade, Inc. and J.P. Securities, Inc. are parties and the following fees are assessed to each:

Member Surcharge = \$ 875.00

Pre-Hearing Process Fee = \$ 750.00

Hearing Process Fee = \$1,000.00

**Total Member Fees = \$2,625.00**

#### **Adjournment Fees**

The following adjournment fees are assessed:

March 8-9, 2006 hearing adjournment requested by  
Claimant = \$ 450.00

July 27-28, 2006 hearing adjournment requested by  
Claimant = \$ 900.00

1. The Arbitrator waived \$450.00 of the adjournment fees.
2. The Arbitrator assessed \$900.00 of the adjournment fee to Claimant Sulastrri Gunawan.

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

The Arbitrator assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference, that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Pre-hearing conference sessions with the arbitrator  
@ \$450.00/session = \$1,350.00

Two (2) Hearing sessions @ \$450.00/session	= \$ 900.00
Hearing: August 22, 2006 2 sessions	
<b>Total Forum Fees</b>	<b>= \$2,250.00</b>

1. The Arbitrator assessed \$1,575.00 of the forum fees to Claimant Sulastris Gunawan.
2. The Arbitrator assessed \$675.00 of the forum fees to Respondent Ameritrade, Inc.

### Fee Summary

1. Sulastris Gunawan is charged with the following fees and costs:

Initial Filing Fee	= \$ 175.00
Adjournment Fee	= \$ 900.00
Forum Fees	= \$ 1,575.00
<b>Total Fees</b>	<b>= \$ 2,650.00</b>
<b>Less payments</b>	<b>= \$ (625.00)</b>
<b>Due to NASD Dispute Resolution</b>	<b>= \$ 2,025.00</b>
2. Ameritrade, Inc. is charged with the following fees and costs:

Member Fees	= \$ 2,625.00
Forum Fees	= \$ 675.00
<b>Total Fees</b>	<b>= \$ 3,300.00</b>
<b>Less payments</b>	<b>=(2,625.00)</b>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 675.00</b>
3. J.P. Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 2,625.00
<b>Less payments</b>	<b>=(2,625.00)</b>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

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.

**ARBITRATION PANEL**

Michael Evan Beckman

- Public Arbitrator

**Arbitrator's Signature**

  
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Michael Evan Beckman  
Public Arbitrator

8/22/06  
Signature Date

8/22/06  
Date of Service