

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

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In the Matter of the Arbitration Between:

Name of Claimant

Lockwin, LTD

vs.

Case Number: 06-01995  
Hearing Site: Houston, Texas

Name of Respondent

E\*Trade Securities, LLC

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**NATURE OF THE DISPUTE**

Customer vs. Member

**REPRESENTATION OF PARTIES**

Lockwin, LTD ("Claimant") was represented by W. Grim Locke, Managing Partner, Lockwin, LTD, Houston, Texas.

E\*Trade Securities, LLC ("Respondent" or "E\*Trade") was represented by John Bersin, Esq., E\*Trade Securities, LLC, Rancho Cordova, California.

**CASE INFORMATION**

The Statement of Claim was filed on or about April 19, 2006. The Submission Agreement of Claimant, Lockwin, LTD, was signed on or about April 15, 2006.

The Statement of Answer was filed by Respondent, E\*Trade Securities, LLC, on or about August 2, 2006. The Submission Agreement of Respondent, E\*Trade Securities, LLC, was signed on or about August 2, 2006.

**CASE SUMMARY**

Claimant asserted the following causes of action: negligence; transfer; and inability to trade. The causes of action related to the transfer of Claimant's account from HarrisDirect to E\*Trade. Claimant alleged that Respondent was negligence in preparing for and executing the transfer of his account during the conversion from HarrisDirect to E\*Trade and Claimant was unable to execute trades during that time. Claimant also alleged that Respondent failed to provide an adequate customer service representatives to assist the complaint calls.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant failed to state a claim upon which relief can be granted; Claimant's claim for punitive damages is not supported by case law; and his damage claims are not cognizable as a matter of law and should be dismissed.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$ 25,000.00
Exemplary/Punitive Damages	\$ 25,000.00
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

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

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.

### **AWARD**

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

- 1.) Claimant's claims, each and all, are hereby denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

### **Filing Fees**

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial Claim filing fee = \$ 175.00

### **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. In this matter, the member firm is E\*Trade Securities, LLC.

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

### **Forum Fees and Assessments**

The Arbitrator has assessed forum fees for each hearing 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 with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Arbitrator x \$450.00 = \$ 450.00  
Pre-hearing conference: September 6, 2006 1 session  
  
One (1) Hearing session x \$450.00 = \$ 450.00  
Hearing Date: November 7, 2006 1 session  

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Total Forum Fees = \$ 900.00

The Arbitrator has assessed \$450.00 of the forum fees to Lockwin, LTD.

The Arbitrator has assessed \$450.00 of the forum fees to E\*Trade Securities, LLC.

### **FEE SUMMARY**

Claimant, Lockwin, LTD, is liable for:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$ 450.00
Total Fees	= \$ 625.00
Less payments	= \$ 625.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent, E\*Trade Securities, LLC, is liable for:

Member Fees	= \$ 2,625.00
Forum Fees	= \$ 450.00
Total Fees	= \$ 3,075.00
Less payments	= \$ 1,625.00
Balance Due NASD Dispute Resolution	= \$ 1,450.00

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

**ARBITRATOR**

Jeffrey R. Jury - Public Arbitrator, Presiding Chair

Arbitrator's Signature:

/s/ Jeffrey R. Jury  
Jeffrey R. Jury  
Public Arbitrator, Presiding Chair

November 14, 2006  
Signature Date

November 14, 2006  
Date of Service (For NASD office use only)

Respondent, E\*Trade Securities, LLC, is liable for:

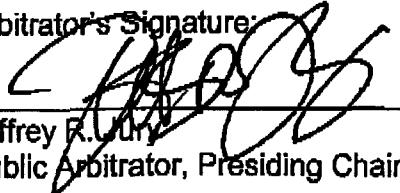
Member Fees	= \$ 2,625.00
<u>Forum Fees</u>	<u>= \$ 450.00</u>
Total Fees	= \$ 3,075.00
<u>Less payments</u>	<u>= \$ 1,625.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,450.00

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

**ARBITRATOR**

Jeffrey R. Jury - Public Arbitrator, Presiding Chair

Arbitrator's Signature:

  
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Jeffrey R. Jury  
Public Arbitrator, Presiding Chair

11/14/06

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

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Date of Service (For NASD office use only)