

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Ilya I. Novof

93-03752

Name of Respondent

E-Trade Securities, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 22, 1993, Claimant Ilya I. Novof, who appeared Pro Se, alleged that Respondent E*Trade Securities, Inc. mistakenly sold stock out of his account. Claimant further alleged that on June 14, 1993 he had 4,600 shares of Echo Bay Mines stock in his account with Respondent and he submitted orders to sell 2,300 shares at \$9 3/4 and 2,300 shares at \$9 3/8. Claimant contended that the sell order for 2300 shares at \$9 3/8 was executed twice by mistake and when Respondent discovered its mistake on June 24, 1993, it bought 2,300 shares at \$11 5/8 to cover the erroneous sell and charged the loss to his account. As a result of the above, Claimant contended that he has suffered damages for which the Respondent should be held liable.

Respondent E*Trade Securities, Inc., through its representative Thomas C. Laris, maintained that Claimant placed three orders to sell Echo Bay Mines ("ECO") on June 14, 1993 and each order was for 2,300 shares for a total of 6,900 shares although Claimant had only 4,600 shares in the account. Respondent further maintained that at 9:30 a.m. on June 14, 1993 Claimant placed order #107 to sell 2,300 shares at \$9 3/4, at 10:03 a.m. Claimant placed order #108 to sell 2,300 shares at \$9 3/8, at 10:23 a.m. order #108 was executed, at 10:27 a.m. order #109 was placed to sell 2,300 shares at \$9 3/8, at 10:29 a.m. #109 was executed and at 2:32 a.m. order #107 was executed. Respondent contended that when order #109 was executed, Claimant should have cancelled order #107, as he did not have any more ECO shares to sell. As a result of the above, Respondent maintained that they should not be held liable in this matter.

RELIEF REQUESTED

Claimant Ilya I. Novof requested \$5,287.07 in actual damages, plus interest and costs.

Respondent E*Trade Securities, Inc. requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Patrick J. MacKrell, Esq., was selected to review the matter in controversy between the Claimant on September 14, 1993 and by the Respondent on November 11, 1993.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent E*Trade Securities, Inc. is liable and shall pay to Claimant Ilya I. Novof \$5,287.07 in actual damages.
2. Respondent E*Trade Securities, Inc. is liable and shall pay to Claimant Ilya I. Novof simple interest at the rate of 6% per annum from September 14, 1993 to the date of payment of the Award.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent E*Trade Securities, Inc. is liable and shall pay to Claimant \$150.00 as reimbursement of the filing fee.

AFFIRMATION

I, **PATRICK J. MacKRELL, ESQ.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

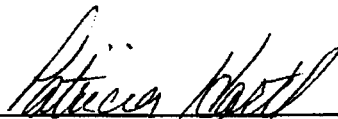
DATE OF DECISION: July 28, 1995

STATE OF: New York

ss:

COUNTY OF: Albany

On this 22 day of July 1995, before me personally appeared **Patrick J. MacKrell, Esq.** to me known and known before me to be the individual described herein and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



PATRICIA HARTL
Notary Public, State of New York
Qualified in Albany County
No. 4910271
Commission Expires 11/2/95