

# **NASD** Arbitration & Mediation

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## **N.A.S.D. AWARD**

### **NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

#### Name of Claimants

Lester L. Stone and Edward M. Stone

96-03559

#### Name of Respondent

E\*Trade Securities, Inc.

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### **CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers Regulation, Inc. on August 19, 1996, claimants Lester L. Stone and Edward M. Stone ("claimants"), who appeared Pro Se, alleged that they utilized Respondent E\*Trade Securities Inc.'s Telemaster system to enter a "buy to cover" order for 1000 shares of Citicorp ("CCI") on July 13, 1995. Claimants further alleged that they were not aware that the July 13, 1995 "buy to cover" was recorded as a "buy" order. Claimants also alleged that Respondent assumed that the order was "short on the box" without obtaining confirmation. Claimants contended that Respondent debited the account with margin interest on the erroneous long position, and also with connect time charges on phone calls which were made to attempt to resolve the error. Claimants maintained that they are not responsible for the charges associated with respondent's negligence.

Respondent E\*Trade Securities, Inc., through its Compliance Analyst, Bob Salvador, maintained that its coded records reflected claimants' day order to buy 1000 CCI on July 13, 1995 at 1:03 p.m. Claimants further maintained that Tele\*Master, its automated touchtone telephone trading system, required claimants to enter (1) the name of the security (2) the number of shares and (3) the type of shares to be processed, which they did. Respondent maintained that Tele\*Master also allowed Claimants to review and confirm the order. Respondent contended that its Trading Department (1) reviewed claimants' account (2) determined that claimants had sufficient equity to buy the 1000 CCI and (3) marked the order ticket "short against the box" which allowed claimants' margin requirement to be 5% of the current market value of the security. Respondent further contended that claimants' claim should be denied since they failed to take immediate corrective action to mitigate their accumulation of margin interest and connection fees.

**RELIEF REQUESTED**

Claimant Lester L. Stone and Edward M. Stone requested \$314.85, interest on \$314.85 from July 18, 1995 to payment and, \$50.00 in costs.

Respondent E\*Trade Securities, Inc. requested that claimants' claim be denied in its entirety.

**AWARD**

Pursuant to Section 10302 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Joseph L. Crowe, Jr., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the claimants Lester L. Stone and Edward M. Stone on August 14, 1996, and by the respondent E\*Trade Securities, Inc. on October 21, 1996.

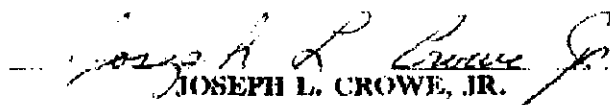
And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent E\*Trade Securities, Inc. is liable and shall pay to claimants Lester L. Stone and Edward M. Stone, \$112.74 in actual damages.
2. Respondent E\*Trade Securities, Inc. is liable and shall pay to claimants Lester L. Stone and Edward M. Stone, interest at the rate of 6% per annum from July 28, 1995 to payment of the award.
3. The parties shall bear their respective costs.
4. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the claimants Lester L. Stone and Edward M. Stone, shall be retained by the NASD, Inc.
5. All other relief requests are denied.

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**AFFIRMATION**

I, JOSEPH L. CROWE, JR., 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.

  
JOSEPH L. CROWE, JR.

DATE OF DECISION: January 7, 1997