

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

David Eckert

96-04064

Name of Respondent

E\*Trade Securities, Inc.

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CASE SUMMARY

In a case filed with National Association of Securities Dealers Regulation, Inc. on September 12, 1996, claimant David Eckert ("claimant"), who appeared Pro Se, alleged that respondent E\*Trade Securities, Inc. ("E\*Trade") gave him an inaccurate quote. Claimant further alleged that he executed a trade on May 13th, using E\*Trade's telemaster system, an electronic trading system through a standard telephone. Claimant also alleged that the telemaster gave him a quote of just under \$10 a share for Del Global ("Del Global"). Claimant asserted that he indicated that he wanted to purchase 100 shares and the telemaster indicated that the total price would be \$978.00 with commission. Claimant further asserted that the telemaster asked him to confirm the trade price and he selected yes, and executed the trade. Claimant also asserted that later that evening he checked his e-mail and found out that the trade was executed at 19 and 3/8. Claimant contended that he contacted E\*Trade and was told that the telemaster had given him an incorrect quote. Claimant further contended that he requested that E\*Trade nullify the trade, but that they refused to nullify the trade. Claimant also contended that he would have nullified the trade himself, but E\*Trade took the money directly from his account.

Respondent E\*Trade through its representative and Compliance Analyst Bob Salvador, maintained that claimant placed a market order, which means that he would receive the current market price at the time his order reached the exchange and executes. Respondent further maintained that the price claimant was quoted can vary from the price actually received as prices are constantly fluctuating. Respondent also maintained that claimant's market order was received at 10:19 a.m. at the market price of \$19 3/8 per share, according to its execution report from their market maker, Trimark ("Trimark"). Respondent contended that when claimant placed the order, he was required to select between a market or limit order and he requested a market order. Respondent further maintained that if claimant wanted to ensure a specific price, he should have requested a limit order, which would have executed the order only at the requested price or better. Respondent also maintained that prior to the trade being sent for execution, Telemaster informed claimant that his order to buy 100 shares at the market price was placed and that the last known buy was executed at \$9 5/8.

Respondent contended that it does not provide investment advice of any kind and considered it the responsibility of their customers to know the potential value of the securities they are purchasing. Respondent further contended that page 10 of their Customer Agreement states that stock price quotations, news and other market data provided to you by E\*Trade are obtained from independent

pricing services which are believed to be reliable. Respondent also contended that it cannot guarantee the accuracy, completeness, timeliness or correct sequencing of such data. Respondent maintained that claimant agreed to the terms of the Customer Agreement to indemnify and hold E\*Trade harmless from any inaccuracy of delay in price quotes.

### **RELIEF REQUESTED**

Claimant David Eckert requested an annulment of the trade placed on May 13, 1996, valued at \$1,952.45 and the \$50.00 filing fee.

Respondent E\*Trade requested that the claims of claimant be dismissed in their entirety.

### **AWARD**

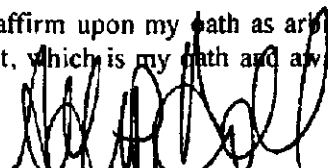
Pursuant to Rule 10302 of the Code of Arbitration Procedure, a single Public Arbitrator Alfred Knoll, Esq., was selected to review the matter in controversy between the parties set forth in Submissions to Arbitration signed by claimant David Eckert on September 6, 1996 and by respondent E\*Trade on October 21, 1996 as required by Rules 10301 and 10302 of the Code of Arbitration Procedure.

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. The claims of claimant David Eckert against E\*Trade are dismissed in their entirety.
2. The \$50.00 filing fee previously deposited by claimant shall be retained by NASD Regulation, Inc.

### **AFFIRMATION**

I, **Alfred Knoll, Esq.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.

  
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Alfred P. Knoll, Esq.

Date of Decision: April 30, 1997