

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:
Michael Minelli v. E*Trade Securities, Inc.

Case Number: 99-828

Hearing Site: Detroit, Michigan

REPRESENTATION OF PARTIES

Claimant, Michael Minelli ("Minelli") , hereinafter referred to as "Claimant": Michael S. Clawson, Esq., Hardy Lewis & Page, P. C., Birmingham, Michigan.

Respondent, E*Trade Securities, Inc. (E*Trade), hereinafter referred to as "Respondent": Paul S. Chan, Esq., Bird Marella , Boxer & Wolpert, Los Angeles, California.

CASE INFORMATION

Statement of Claim filed on or about: February 24, 1999

Second Amended Statement of Claim filed on or about: March 25, 1999

Claimant signed the Uniform Submission Agreement: February 18, 1999

Statement of Answer filed by Respondent on or about: June 28, 1999

Respondent signed the Uniform Submission Agreement: June 22, 1999

CASE SUMMARY

Claimant asserted that when he placed his order to sell Netscape stock on November 24, 1998, he believed the order to be a "day order" and not a "good until canceled order." Although the voice records from Respondent confirm Claimant entering the order as "good until canceled" on November 24, 1998, Claimant contended that he never received a confirmation of the order at any time which would have alerted him that an order on the stock was still in effect. Claimant also maintained that the E*Trade system was not operating properly as he was unable to access his account information on many occasions from November to December, 1998, and further, that when he could, the screens he was able to view made no reference to the open order. Furthermore, Claimant alleged that E*Trade's system in general was experiencing operation difficulties in December, 1998, and, in fact, E*Trade made changes to its system after the fact which would have prevent Claimant's situation from occurring.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim. Respondent asserted that the audiotape recordings of the November 24, 1998, order confirm that E*Trade designated Claimant's sell order as "good until canceled" and not "good for the day" - because Claimant himself requested that the order be "good until canceled." Respondent argued that it, therefore, properly executed the sell order on December 21, 1998, once the limit price was reached. Respondent further alleged that Claimant ratified the execution of the sell order on December 31, 1998.

RELIEF REQUESTED

Claimant requested the return of his stock which was removed from his account, or alternatively, \$500,000.00 in compensatory damages, plus costs, attorney fees, and such other relief as the Panel deems appropriate.

Respondent E*Trade requested dismissal of the Claim, plus costs, forum fees, and such other and further relief as the Panel may deem just and proper.

OTHER ISSUES CONSIDERED AND 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 evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's claims, each and all, are denied with prejudice;
- 2.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) That any relief not specifically enumerated, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 200.00

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(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$ 1,500.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$ 2,500.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with

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these proceedings are:

One (1) Pre-hearing session with Panel x \$300.00	= \$ 300.00
Pre-hearing conference: December 6, 1999 1 session	
One (1) Hearing session x \$750.00	= \$ 750.00
Hearing Dates: May 17, 2000 1 session	
Total Forum Fees	= \$1,050.00

The Panel has assessed \$1,050.00 of the forum fees to Claimant, Michael Minelli.

Fee Summary

Claimant, Michael Minelli, be and hereby is solely liable for:

Initial Filing Fee	= \$ 200.00
Forum Fees	= \$ 1,050.00
Total Fees	= \$ 1,250.00
Less payments	= \$ 1,250.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

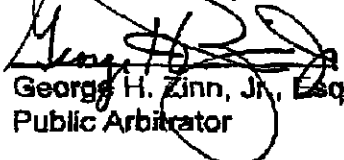
Respondent, E*Trade Securities, Inc., be and hereby is solely liable for:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
Less payments	= \$ 6,100.00
Balance Due NASD Regulation, Inc.	= \$(1,500.00)

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature

Marvin I. Horowitz, Esq.
Public Arbitrator, Presiding Chair


George H. Zinn, Jr., Esq.
Public Arbitrator

Signature Date

15 June 2000
Signature Date

Robert Shiffra, Esq.
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Less payments	= \$ 6,100.00
Balance Due NASD Regulation, Inc.	= \$(1,500.00)

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature

Marvin I. Horowitz, Esq.
Public Arbitrator, Presiding Chair

Signature Date

George H. Zinn, Jr., Esq.
Public Arbitrator

Signature Date


Robert Shiffra, Esq.
Industry Arbitrator

6-19-00
Signature Date

Date of Service (For NASD office use only)

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One (1) Pre-hearing session with Panel x \$300.00 = \$ 300.00
Pre-hearing conference: December 8, 1999 1 session
One (1) Hearing session x \$750.00 = \$ 750.00
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Total Fees	= \$ 1,250.00
Less payments	= \$ 1,250.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

Respondent, E*Trade Securities, Inc., be and hereby is solely liable for:

Member Fees	= \$ 4,800.00
Total Fees	= \$ 4,800.00
Less payments	= \$ 3,100.00
Balance Due NASD Regulation, Inc.	= \$(1,500.00)

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature


Marvin I. Horowitz, Esq.
Public Arbitrator, Presiding Chair

6/19/00
Signature Date

George H. Zinn, Jr., Esq.
Public Arbitrator

Signature Date

Robert Shiffra, Esq.
Industry Arbitrator

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