

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Liberty Immigration Management Co., (Claimant) vs. E*Trade Securities, Inc., (Respondent)

Case Number: 99-01746

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, Liberty Immigration Management Co. ("Liberty"), hereinafter referred to as "Claimant": Richard C. Herbst, President, Liberty Immigration Management Co., West Palm Beach, FL. Previously represented by: Pilar Pittman, Liberty Immigration Management Co., New York, NY.

Respondent, E*Trade Securities, Inc. ("E*Trade"), hereinafter referred to as "Respondent": Robert J. McGahan, Esq., Bird, Marella, Boxer & Wolpert, Los Angeles, CA.

CASE INFORMATION

Statement of Claim filed on or about: April 13, 1999.

Amended Complaint filed on or about: June 28, 1999.

Claimant signed the Uniform Submission Agreement: April 23, 1999.

Statement of Answer filed by Respondent on or about: July 22, 1999.

Statement of Answer to Amended Complaint filed on or about: October 21, 1999.

Respondent signed the Uniform Submission Agreement: June 23, 1999.

CASE SUMMARY

Claimant alleged the following: Respondent classified a portion of Claimant's securities as *restricted, without explanation, and refused to sell them*; Respondent failed to give Claimant proper information concerning how to place orders to write put options, which resulted in a margin call; and, Respondent's sloppy, incompetent record-keeping habits caused Claimant financial loss.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Respondent acted properly in classifying the stock in question as restricted; Claimant failed to submit a properly executed corporate resolution along with its stock certificate; Claimant's damages are speculative; Respondent properly executed a margin call on Claimant's account; and Respondent acted properly at all times in following Claimant's instructions.

RELIEF REQUESTED

Claimant requested total damages in the amount of \$107,600.00.

Respondent requested that both Claimant's Statement of Claim and Amended Complaint be denied in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On May 22, 2000, Claimant's representative advised the NASD Regulation, Inc. Office of Dispute Resolution (the "NASD"), via four facsimile transmissions, that his flight from Florida to New York was delayed and ultimately canceled. Claimant demanded that the May 23, 2000 hearing date be postponed, stating that there were no other flights available. The Panel denied the postponement request on the basis that it was unreasonable, and ordered on May 22, 2000 that the Claimant's representative appear at the hearing by 12:00 p.m. on May 23, 2000. The NASD conveyed the Panel's order to Claimant's representative through several phone messages, electronic mail, electronic pages, and facsimile transmissions. Claimant's representative did not appear at the hearing.

During the hearing in this matter, Respondent made a Motion to Dismiss, with prejudice, due to Claimant's failure to appear. The Panel granted Respondent's Motion to Dismiss, but determined that the dismissal would be *without* prejudice.

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 are hereby dismissed, without prejudice, in their entirety.
2. All other requests for relief are hereby denied.

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 = \$ 300.00

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, E*Trade Securities, Inc. is a party.

Member surcharge	= \$1,000.00
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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: November 1, 1999 1 session	
One (1) Hearing session x \$1,125.00	= \$1,125.00
Hearing Date May 23, 2000 1 session	
Total Forum Fees	= \$2,250.00

The Panel has assessed all of the forum fees against Claimant.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$2,250.00
Total Fees	= \$2,550.00
<u>Less payments</u>	= \$ 975.00
Balance Due NASD Regulation, Inc.	= \$1,575.00

2. Respondent be and hereby is solely liable for:

<u>Member Fees</u>	= \$4,100.00
Total Fees	= \$4,100.00
<u>Less payments</u>	= \$4,100.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Claus Z. Pappenheimer
Public Arbitrator, Presiding Chair

Signature Date

Edward T. Hill
Public Arbitrator

Signature Date



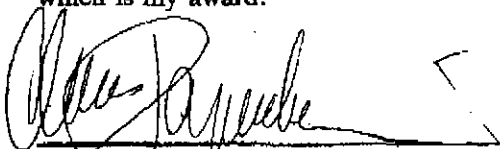
Clifford J. Friedman
Industry Arbitrator

Signature Date

June 29, 2000
Date of Service (For NASD office use only)

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Clark Z. Pappenheimer
Public Arbitrator, Presiding Chair

Signature Date

Edward T. Hill
Public Arbitrator

Signature Date

Clifford J. Friedman
Industry Arbitrator

Signature Date

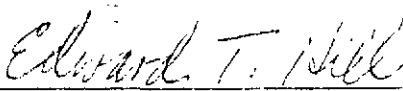
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Public Arbitrator, Presiding Chair

Signature Date



Edward T. Hill
Public Arbitrator

Signature Date

Clifford J. Friedman
Industry Arbitrator

Signature Date

June 29, 2000
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