

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Ali Lee Khadivi, Claimant vs. E*TRADE Securities, Inc., Respondent.

Case Number: 99-02998

Hearing Site: San Francisco, California

REPRESENTATION OF PARTIES

Claimant, Ali Lee Khadivi ("Khadivi"), hereinafter referred to as "Claimant": Philip M. Aidikoff, Esq. and Ryan K. Bakhtiari, Esq., Aidikoff & Uhl, Beverly Hills, California

Respondent, E*TRADE Securities, Inc. ("E*TRADE"), hereinafter referred to as "Respondent": Mark T. Dooks, Esq., Bird, Marella, Boxer & Wolpert, Los Angeles, California

CASE INFORMATION

Statement of Claim filed on or about: June 29, 1999

Claimant's Response to Respondent E*TRADE Securities, Inc.'s Counterclaim filed on or about: December 15, 1999

Claimant, Ali Lee Khadivi, signed the Uniform Submission Agreement: June 22, 1999

Statement of Answer and Counterclaim filed by Respondent, E*TRADE Securities, Inc., on or about: October 22, 1999

Respondent, E*TRADE Securities, Inc., signed the Uniform Submission Agreement: October 25, 1999

CASE SUMMARY

Claimant alleged that his account sustained losses because of Respondent's wrongful conduct. Claimant further alleged the following claims with respect to investments in various securities: 1) Breach of Fiduciary Duty; 2) Negligence; 3) Negligent Misrepresentation; 4) Breach of Contract; 5) Violations of Business & Professions Code Section 17200, et seq., The "Unfair Trade Practices Act"; 6) False Advertising; and 7) Violation of California Civil Code Section 1770.

Respondent denied Claimant's allegations of wrongdoing and denied any liability to Claimant. Respondent alleged that Khadivi's claim is an attempt to foist his own trading losses off on E*TRADE by erroneously attributing his losses to a single trading discrepancy in his account. Respondent further alleged that E*TRADE voluntarily corrected the trading discrepancy in March 1999, after Khadivi filed a trading inquiry. Respondent further alleged that Khadivi's losses were due to his own decision to hold the Perot Systems Corp. stock purchased in his account on February 4, 1999. Respondent further alleged that the subsequent decline in value

resulted in losses for Khadivi; and that those losses were caused by Khadivi's investment decision, not any conduct by E*TRADE.

In its Counterclaim, Respondent alleged that as a result of his trading activities, Khadivi incurred an outstanding debit balance in his account and further alleged that as of March 16, 1999, that outstanding balance was \$4,045.46. Respondent further alleged that Khadivi remains responsible for this debit balance and all interest accrued thereon.

Claimant denied each and every claim set forth in Respondent's Counterclaim and denied any liability to Respondent.

RELIEF REQUESTED

Claimant requested:

1. General and compensatory damages in an amount according to proof, but not less than \$53,295.93;
2. Cost of proceedings;
3. Punitive damages in an amount according to proof;
4. Interest at the legal rate on all sums recovered;
5. Attorneys fees and costs pursuant to California Civil Code Sections 1717 and 1770; and
6. Such other and further relief as the Panel deems just and appropriate.

Respondent requested that:

1. The Statement of Claim be dismissed in its entirety;
2. E*TRADE be awarded damages according to proof on its Counterclaim, plus interest thereon;
3. E*TRADE be awarded its attorneys' fees, costs and forum fees in this matter; and
4. E*TRADE be awarded 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. Respondent E*TRADE is liable for and shall pay to Claimant the sum of \$61,203.00 in compensatory damages which includes pre-judgment interest in the amount of \$7,786.00.
2. Respondent E*TRADE is liable for and shall pay to Claimant the sum of \$225.00 as reimbursement for Claimant's filing fee.
3. Respondent E*TRADE is liable for and shall pay to Claimant expert witness fees and travel costs in the amount of \$3,500.00.
4. Respondent E*TRADE is liable for and shall pay to Claimant post-judgment interest at the legal rate of 10% per annum from July 10, 2000, until payment of this Award.
5. Claimant's claim for punitive damages is denied.
6. All claims with respect to Respondent's Counterclaim are dismissed.
7. The parties shall each bear their respective attorney's fees incurred in this matter.

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	= \$225.00
Counterclaim filing fee	= \$400.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) 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	= \$1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,500.00

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. Forum fees are based on the hearing session deposit associated with the respective party's claim or counterclaim. Forum fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$125.00	= \$125.00
Pre-hearing conference: March 10, 2000 1 session	
One (1) Pre-hearing session with a single arbitrator x \$125.00	= \$125.00
Pre-hearing conference: June 21, 2000 1 session	
Four (4) hearing sessions x \$125.00	= \$500.00
Hearing Dates: July 6, 2000 2 sessions	
July 7, 2000 2 sessions	
<hr/> Total Forum Fees	= \$750.00

1. The Panel has assessed the \$750.00 in forum fees to Respondent E*TRADE. Such fees were calculated based on Respondent's hearing session deposit and the hearing sessions held.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Claimant requested copies of audio transcripts, \$105.00.

Fee Summary

1. Claimant, be and hereby is solely liable for:

Initial Filing Fee	= \$ 225.00
Member Fees	= \$ 0.00
Adjournment Fee	= \$ 0.00
Forum Fees	= \$ 0.00
<u>Administrative Costs</u>	= \$ 105.00
Total Fees	= \$ 330.00
<u>Less payments</u>	= \$1,080.00
Balance (Refund)	= \$ 750.00
2. Respondent, E*TRADE, be and hereby is solely liable for:

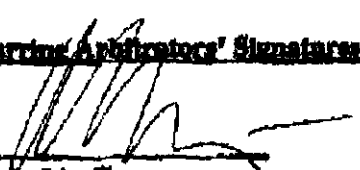
Counterclaim Filing Fee	= \$ 400.00
Member Fees	= \$3,100.00
Forum Fees	= \$ 750.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$4,250.00

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Less payments	= \$4,750.00
Balance (Refund)	= \$ 500.00

All balances are due to NASD Regulation, Inc. and are payable within 30 days of the service date of this Award.

Concurring Arbitrators' Signatures


Robert L. Liu, Esq.
Public Arbitrator, Presiding Chair


Signature Date

Donald S. Green
Public Arbitrator

Signature Date

Darcy Jill Gomez
Industry Arbitrator

Date Served:
JUL 31 2000

Signature Date

Date of Service (For NASD office use only)

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<u>Less payments</u>	<u>= \$4,750.00</u>
<u>Balance (Refund)</u>	<u>= \$ 500.00</u>

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Public Arbitrator, Presiding Chair

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7/31/00
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