

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Michael & Annette LaCour vs. E*Trade Securities, Inc.

Case Number: 99-4130

Hearing Site: Detroit, Michigan

REPRESENTATION OF PARTIES

Claimants Michael & Annette LaCour ("LaCours"), hereinafter collectively referred to as "Claimants": Alexis Beck, Esq., UAW-GM Legal Services Plan, Detroit, Michigan.

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

CASE INFORMATION

Statement of Claim filed on or about: September 8, 1999

Claimant, Michael LaCour, signed the Uniform Submission Agreement: August 28, 1999

Claimant, Annette LaCour, signed the Uniform Submission Agreement: August 28, 1999

Statement of Answer filed by Respondent on or about: November 23, 1999

Respondent signed the Uniform Submission Agreement: March 8, 2000, by Henry Carter

CASE SUMMARY

Claimants claim that Respondent improperly liquidated their E* Trade margin account in the middle of the day without waiting a reasonable time. Claimants allege that the letter they received on October 7, 1997, gave them until 3:00 p.m. on October 9, 1997, to provide additional margin of \$4,700.00. Claimants asserted that instead of waiting, Respondent liquidated the account on October 8, 1997, in the middle of the day and by the end of the day the stock was back up again. Claimants believe that the contract is ambiguous and there is an implied condition of reasonableness.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: the parties' written agreement authorized Respondent to liquidate Claimants' margin position when account equity fell to unacceptable levels, Respondent acted properly in liquidating Claimants' margin position in EGRP, and Claimants' failed to mitigate their damages.

RELIEF REQUESTED

Claimants requested the value of the stock seven days after it was liquidated, which is \$25,537.50.

Respondent requested dismissal, costs and attorney's fees.

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 Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimants' claims are denied, each and all, in their entirety;
- 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, including punitive damages 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	= \$ 150.00
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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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$ 600.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,000.00

Forum Fees and Assessments

The Arbitrator 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, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator	x \$450.00	= \$ 450.00
Pre-hearing conference:	March 17, 2000	1 session

Two (2) Hearing sessions x \$450.00	= \$ 900.00
Hearing Date: September 22, 2000 2 sessions	
Total Forum Fees	= \$1,350.00

The Arbitrator has assessed \$675.00 of the forum fees to E*Trade Securities, Inc.
The Arbitrator has assessed \$675.00 of the forum fees jointly and severally to Michael and Annette LaCour.

Fee Summary

Claimants Michael and Annette LaCour, be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 150.00
Forum Fees	= \$ 675.00
Total Fees	= \$ 825.00
<u>Less payments</u>	= \$ 1,600.00
Balance refunded by NASD Dispute Resolution, Inc.	= \$ 775.00

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

Member Fees	= \$ 2,200.00
Forum Fees	= \$ 675.00
Total Fees	= \$ 2,875.00
<u>Less payments</u>	= \$ 600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,275.00

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrator's Signature

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

12/06/00
Signature Date

12/06/00
Date of Service (For NASD office use only)

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Two (2) Hearing sessions x \$450.00 = \$ 900.00
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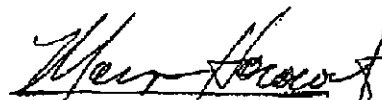
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Marvin I. Horowitz, Esq.
Public Arbitrator, Presiding Chair

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