

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Claimants

Benjamin Bosowski
Manuel Cacdac
Priscilla Nash Clegg
Jeffrey Clegg
Jessica Clegg
Rebecca Nash Mitchell
Q. Peter Nash
Debra Nash
Mark Nash
Lucille Nash
Gerald Q. Nash
Nash Foundation

Case Number: 11-02285

vs.

Respondent

E*Trade Securities LLC

Hearing Site: Tampa, Florida

Nature of the Dispute: Customers vs. Member

The case proceeded under the Optional All Public Panel Rule/ All Public Panel

REPRESENTATION OF PARTIES

For Benjamin Bosowski ("Bosowski"), Manuel Cacdac ("Cacdac"), Priscilla Nash Clegg ("P. Clegg"), Jeffrey Clegg ("Clegg"), Jessica Clegg ("J. Clegg"), Rebecca Nash Mitchell ("Mitchell"), Q. Peter Nash ("Q. Peter Nash"), Debra Nash ("D. Nash"), Mark Nash ("M. Nash"), Lucille Nash ("L. Nash"), Gerald Q. Nash ("G. Nash"), and Nash Foundation ("Nash Foundation"), hereinafter collectively referred to as "Claimants": Jeffrey P. Coleman, Esq., Coleman Law Firm, Clearwater, Florida.

For E*Trade Securities LLC, hereinafter referred to as "Respondent": Lonnie L. Simpson, Esq., Shutts & Bowen, LLP, Tampa, Florida.

CASE INFORMATION

Statement of Claim filed on or about: June 6, 2011.

Claimant Q. Peter Nash signed the Submission Agreement: April 4, 2011.

Claimant D. Nash signed the Submission Agreement: April 4, 2011.

Claimant Nash Foundation signed the Submission Agreement: April 4, 2011.
Claimant Bosowski signed the Submission Agreement: April 5, 2011.
Claimant P. Clegg signed the Submission Agreement: April 5, 2011.
Claimant Clegg signed the Submission Agreement: April 5, 2011.
Claimant Mitchell signed the Submission Agreement: April 5, 2011.
Claimant M. Nash signed the Submission Agreement: April 5, 2011.
Claimant J. Clegg signed the Submission Agreement: April 12, 2011.
Claimant Cacdac signed the Submission Agreement: April 13, 2011.
Claimant L. Nash signed the Submission Agreement: April 19, 2011.
Claimant G. Nash signed the Submission Agreement: April 19, 2011.

Statement of Answer filed by Respondent on or about: August 11, 2011.
Respondent signed the Submission Agreement: August 20, 2011.

CASE SUMMARY

Claimants asserted the following causes of action: 1) negligence; 2) breach of fiduciary duty; 3) failure to supervise; 4) common law fraud; 5) breach of contract; 6) violation of Florida Statutes, Chapter 517; and, 7) violations of the industry standards. The causes of action relate to excessive trading, use of margin and short sales of various, unspecified securities in Claimants' accounts.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested compensatory damages in excess of \$4,500,000.00, interest, disgorgement of commissions and other revenue generated from the accounts, costs, expenses, disbursements, FINRA fees, a determination of their entitlement to attorneys' fees in an amount to be determined by a court of competent jurisdiction, punitive damages and, such other and further relief as this Panel deemed just and proper.

At the close of the hearing, Claimants requested compensatory damages inclusive of interest in the amount of \$13,177,299.00.

In its Statement of Answer, Respondent requested that the Panel deny Claimants' claims in their entirety, costs and confirm its entitlement to recover attorneys' fees from Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On or about March 26, 2012, Claimants filed a dismissal, without prejudice, of all claims under Florida Statutes, Chapter 517. The Panel accepted the dismissal.

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:

Respondent is found liable for violations of the N.H. Rev. Statutes 421-B and the Indiana Code (Uniform Securities Act) 23-19 and shall pay to Claimants compensatory damages as follows:

To Claimant Q. Peter Nash: \$415,000.00
To Claimant M. Nash: \$240,000.00
To Claimant D. Nash: \$210,000.00
To Claimant Nash Foundation: \$45,000.00
To Claimant P. Clegg: \$115,000.00
To Claimant Mitchell: \$120,000.00
To Claimant Cacdac: \$40,000.00
To Claimant Bosowski: \$60,000.00
To Claimant Clegg: \$60,000.00
To Claimant J. Clegg: \$60,000.00

The claims of Claimants L. Nash and G. Nash are denied in their entirety, with prejudice.

Respondent is found liable and shall pay to Claimants Q. Peter Nash, M. Nash, D. Nash, Nash Foundation, P. Clegg, Mitchell, Cacdac, Bosowski, Clegg and J. Clegg attorney's fees pursuant to N.H. Rev. Statutes 421-B in an amount to be determined by a court of competent jurisdiction.

Respondent is found liable and shall pay to Claimants Q. Peter Nash, M. Nash, D. Nash, Nash Foundation, P. Clegg, Mitchell, Cacdac, Bosowski, Clegg and J. Clegg costs, including expert witness fees, in the amount of \$57,211.34.

Any and all relief not specifically addressed herein, including Claimants' request for punitive damages and Respondent's request for an order of entitlement to attorneys' fees, is denied.

FEES

Pursuant to the Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

FINRA Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing fee = \$ 1,800.00

**The filing fee is made up of a non-refundable and a refundable portion.*

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. Accordingly, as a party and a member firm Respondent is assessed the following:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 5,000.00

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

One (1) Decision on discovery-related motion on the papers with (1) one arbitrator @ \$200.00	= \$ 200.00
<u>Respondent submitted one discovery-related motion</u>	

Total Discovery-Related Motion Fee = \$ 200.00

The Panel has assessed \$100.00 of the discovery-related motion fee jointly and severally to Claimants.

The Panel has assessed \$100.00 of the discovery-related motion fee to Respondent.

Contested Motion for Issuance of a Subpoena Fees

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) Decision on a contested motion for the issuance of a subpoena (1) one arbitrator @ \$200.00	= \$200.00
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Total Contested Motion for Issuance of Subpoena Fee = \$200.00

The Panel has assessed \$100.00 of the contested motion for issuance of subpoena fee jointly and severally to Claimants.

The Panel has assessed \$100.00 of the contested motion for issuance of subpoena fee to Respondent.

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A 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 these proceedings are:

Three (3) Pre-hearing sessions with the Panel @ \$1,200.00/session	= \$3,600.00
Pre-hearing conferences: November 1, 2011 1 session	
March 7, 2012 1 session	

April 13, 2012 1 session

Eleven (11) Hearing sessions @ \$1,200.00/session = \$13,200.00

Hearing Dates: April 24, 2012 2 sessions
 April 25, 2012 2 sessions
 April 26, 2012 2 sessions
 April 27, 2012 2 sessions
 May 1, 2012 2 sessions
 May 2, 2012 1 session

Total Hearing Session Fees = \$16,800.00

The Panel has assessed \$8,400.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$8,400.00 of the hearing session fees to Respondent.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Frank Brenner	-	Public Arbitrator, Presiding Chairperson
Ian S. Greig	-	Public Arbitrator
Noel K. Evans	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures



Frank Brenner
Public Arbitrator, Presiding Chairperson

5-7-2012

Signature Date

Ian S. Greig
Public Arbitrator

Signature Date

Noel K. Evans
Public Arbitrator

Signature Date

Date of Service (For FINRA Dispute Resolution office use only)

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Ian S. Greig	-	Public Arbitrator
Noel K. Evans	-	Public Arbitrator

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Frank Brenner
Public Arbitrator, Presiding Chairperson

Ian S. Greig
Public Arbitrator

Noel K. Evans
Public Arbitrator

Signature Date


Ian S. Greig, 5/7/2012
Signature Date

Signature Date

Date of Service (For FINRA Dispute Resolution office use only)

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Ian S. Greig	-	Public Arbitrator
Noel K. Evans	-	Public Arbitrator

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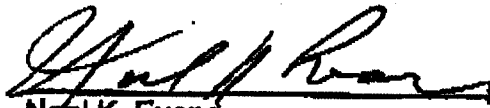
Concurring Arbitrators' Signatures

Frank Brenner
Public Arbitrator, Presiding Chairperson

Signature Date

Ian S. Greig
Public Arbitrator

Signature Date



Noel K. Evans
Public Arbitrator

5/2/12

Signature Date

Date of Service (For FINRA Dispute Resolution office use only)