

**STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES
BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

In the matter of:)
))
E*TRADE SECURITIES LLC)
))
Respondent.)
))

**S-11-0130
ORDER TO CEASE AND DESIST,
ORDER ASSESSING CIVIL PENALTY,
AND
CONSENT TO ENTRY OF ORDER**

WHEREAS, E*TRADE Securities LLC (“Respondent”) is a broker-dealer licensed in Oregon; and

WHEREAS, Respondent’s activities regarding the sale of auction rate securities (“ARS”) have been the subject of coordinated investigations conducted by a multi-state task force; and

WHEREAS, Respondent has provided documentary evidence and other materials and provided regulators with access to information relevant to their investigations; and

WHEREAS, on October 18, 2011 Respondent and the multi-state task force reached an agreement to resolve the investigations relating to Respondent’s sale of ARS to certain customers; and

WHEREAS, Respondent agrees, among other things, to purchase certain ARS from customers and to make certain payments; and

WHEREAS, Respondent elects to waive permanently any right to a hearing and appeal under ORS 59.295, ORS 59.305 and ORS Chapter 183, with respect to this Order to Cease and Desist, Order Assessing Civil Penalty, and Consent to Entry of Order (the “Order”); and

WHEREAS, Respondent admits the jurisdiction of the Director of the Oregon Department of Consumer and Business Services (“Director”) and consents to the entry of this Order by the Director; and

WHEREAS, Respondent has voluntarily agreed to purchase, or arrange to have

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
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Telephone: (503) 378-4387





1 purchased, ARS from certain customers, as described in Section IV below; and

2 WHEREAS, Respondent neither admits nor denies the Findings of Fact and Conclusions
3 of Law contained in this Order.

4 NOW, THEREFORE, the Director, as administrator of the Oregon Securities Law, ORS
5 Chapter 59 and OAR Chapter 441 (“the Oregon Securities Law”), hereby enters this Order:

6 **I.**

7 **RESPONDENT**

8 1. Respondent (**CRD #29106**) was, at all times material herein, a limited liability
9 company organized under the laws of Delaware with its principal place of business in New York,
10 New York.

11 **II.**

12 **FINDINGS OF FACT**

13 2. Respondent is in the business of effecting transactions in securities in Oregon as a
14 “broker-dealer” within the meaning of the Oregon Securities Law.

15 3. Respondent has customers located across the United States of America, including
16 Oregon.

17 4. Respondent’s business model centers upon customers who use the firm's website to
18 buy and sell securities, generally known as online stock trading.

19 5. Although Respondent is an online trading firm, it also has about 30 branch offices
20 across the country, at least some of which were purchased from earlier online trading firms.

21 6. Despite the focus of its business model upon online retail trading,
22 Respondent maintained fewer than 20 "financial advisors" (FAs) who were authorized to provide
23 investment advice to clients regarding ARS. The FAs are assigned to an Investment Specialist
24 Group supervised by a branch manager. The FAs are alternatively referred to herein as
25 investment specialists or registered representatives (also referred to herein as “securities
26 salespersons”).



1 the next successful auction, at which time the rate is reset during the bidding process.

2 14. As is generally the case in the capital markets, issuers and investors are connected via
3 intermediaries or financial institutions that serve in various capacities in the ARS marketplace.
4 The major roles of intermediaries in the ARS market are: (1) large broker-dealers who act as
5 ARS underwriters and often also serve as auction dealers; (2) auction agents selected by the
6 underwriters to collect orders and match buyers with sellers; (3) major broker-dealers who trade
7 in ARS and act as wholesalers; and (4) downstream broker-dealers who place retail customer
8 orders through the wholesalers trading in ARS.

9 15. Respondent did not perform any of the major intermediary functions identified as (1)
10 through (3) above. Rather, from 2003 to February 2008, it acted as a downstream broker-dealer
11 that relayed retail customer orders to Oppenheimer & Co., which was a wholesaler trading in
12 Auction Rate Preferred Securities ("ARPS"). Oppenheimer then transmitted Respondent's
13 customer orders to auction dealers to complete the purchase or sale.

14 **ARPS**

15 16. Of the types of ARS that were available from 2003 through February 2008,
16 Respondent generally sold ARPS to its customers. ARPS are preferred stock issued by closed-
17 end mutual funds. Because ARPS are preferred shares, they have no maturity date and there is
18 no obligation upon the issuer to redeem shares on demand. Therefore, their period of existence is
19 "in perpetuity."

20 17. The market for ARS (including ARPS) collapsed in February 2008, but prior to that,
21 ARPS were generally perceived to be a relatively safe and liquid fixed income investment. The
22 primary benefit was a higher rate of interest than could typically be achieved by investing in
23 Treasury bills or money market accounts. As a general rule, ARPS could be expected to pay a
24 rate of at least 50 basis points, or one-half percent interest, in excess of what a money market
25 account was paying at the same time.

26 18. ARPS were seen as a relatively safe credit risk because, by law, issuers had to



1 maintain reserves sufficient to cover twice the amount of money outstanding in issued ARPS. If
2 reserves fell below that amount, issuers were required by law to either increase their reserves or
3 redeem sufficient ARPS to restore the 200% ratio. Because of these and other factors, credit
4 rating agencies typically gave ARPS high credit ratings.

5 19. Respondent chose to offer for sale only those ARPS that carried an AAA credit
6 rating, which is the highest rating awarded by the credit rating agencies.

7 20. Liquidity risk is different from credit risk, and an AAA credit rating does not speak to
8 the security's liquidity risk. Liquidity means the ability to sell a security quickly at the par value.
9 Liquidity risk, therefore, is the possibility that an ARPS cannot be sold or traded upon demand.
10 Thus, although an ARPS might have a low credit risk because the issuer is financially sound and
11 is likely to continue to make the required interest payments, the ARPS might have high liquidity
12 risk if, for whatever reason, it cannot be sold or otherwise liquidated quickly. Liquidity risk is an
13 important feature of a security because, even if the security has good credit risk, it may have
14 little value to an investor if the investor cannot sell it when necessary.

15 **Respondent's Sale of ARPS**

16 21. Due to their relative safety in terms of credit risk and perceived liquidity,
17 Respondent chose to engage in the sale of ARPS to its retail customers, but generally eschewed
18 sale of riskier types of ARS, especially those involving debt backed securities.

19 22. Contrary to its practice of making traditional stocks, bonds and mutual funds
20 available for sale online, Respondent opted to sell ARPS only through its FAs. A customer
21 seeking financial advice might have called directly or have been referred to an FA by a local
22 E*Trade office, or alternatively, an FA might have initiated a call to a particular customer if the
23 FA felt that the customer had a particular need. For example, an FA who noticed that a client
24 had a large cash account balance might have called the client to suggest moving the cash to an
25 investment with a better rate of return.

26 23. Procedurally, when an FA received a buy or sell order from a client, the FA



1 completed a trade ticket and forwarded it to the Fixed Income Desk located in the same office.
2 The Fixed Income Desk then forwarded the buy or sell order to the intermediary broker-dealer,
3 Oppenheimer & Co. Oppenheimer then aggregated the various buy and sell orders received from
4 all client broker-dealers and forwarded them to the auction agent for presentation at the next
5 available auction.

6 24. If the auction was successful and the buy or sell order was executed, a trade
7 confirmation was prepared and forwarded back to the investor.

8 25. In recommending ARPS for investors' consideration, certain FAs described ARPS as
9 "7-day paper" with "daily liquidity" that was as safe as a money market account. Although FAs
10 also referred to ARPS as "auction rate preferreds," they rarely if ever explained that ARPS were
11 in fact long-term securities that could only be sold at auction, nor mentioned that if an auction
12 failed ARPS would lose liquidity.

13 **The Dutch Auction Process**

14 26. ARS, including ARPS, are not traded on the New York Stock Exchange or any other
15 open securities exchange. Rather, ARS (including ARPS) were, prior to the ARS market collapse
16 in February 2008, traded through a "Dutch auction" process.

17 27. If, at any given auction, there are insufficient buyers to purchase all the ARS
18 available for sale at a clearing rate below the maximum rate, the auction is said to have "failed."
19 An investor who has been unable to sell his or her ARS at a failed auction must then wait until
20 the next periodic auction to again offer them for sale. Until the ARS are sold at a successful
21 auction, the interest rate paid on that ARS is the maximum or default rate.

22 28. Because ARS are typically long-term instruments, and in the case of ARPS are of
23 perpetual maturity, their liquidity depends upon the ability of holders to sell the instruments at
24 auction. If auctions fail, or if the auction process collapses entirely as it did in February 2008,
25 liquidity is severely impaired.

26 29. Because there is no established market for ARS apart from the auction process,

1 there is limited ability to liquidate ARS outside that process. The ARS issuer may decide to
2 redeem those shares if it is economically advantageous to do so, but there is no obligation upon
3 issuers to do so. Alternatively, an ARS holder may be able to arrange a sale on an ad hoc basis
4 outside the auction process. However, such sales are on a case-by-case basis and often involve
5 discounts to the par value of the ARS, resulting in a financial loss to the holder.

6 30. Consequently, the liquidity of ARS (including ARPS) depended upon the continued
7 success of the Dutch auction process.

8 **Collapse of the Dutch Auction Process**

9 31. The Dutch auction process functioned with very few auction failures for many years
10 after the introduction of ARS in 1984. Over the years, there had been approximately 13 auction
11 failures, typically arising when an issuer lost its creditworthiness, thus eliminating buyer interest
12 in that security. However, prior to February 2008, there had not been an ARPS auction failure
13 nor had there been a total collapse of the ARS auction market.

14 32. Beginning in August 2007, deteriorating economic conditions and tightening credit
15 markets caused a strain on the ARS market, resulting in a number of ARS auction failures.
16 However, prior to February 2008, these failures did not involve the ARPS auction markets
17 because ARPS were generally considered safer and more creditworthy investments.

18 33. However, in February 2008, an event occurred that caused the wholesale collapse
19 of the ARS auction market, including ARPS. The triggering event was the decision by a major
20 underwriter, Goldman Sachs, to stop submitting cover bids. Large underwriters, like Goldman
21 Sachs, found that due to deteriorating financial conditions, they could no longer afford to carry
22 large balances of ARS on their books and thus they stopped buying ARS for their own accounts.
23 Once Goldman Sachs stopped submitting cover bids at auction, all the other large underwriters
24 followed suit.

25 34. Without the support of the large underwriters, insufficient buy bids were received at
26 most auctions to cover all the ARS offered for sale, and as a result the auction market totally





1 collapsed. The ARPS auction market was particularly hard hit because the maximum, or default,
2 rates for ARPS were generally very low and therefore there was insufficient investor interest to
3 sustain the market in the absence of the underwriter's cover bids.

4 35. As of February 13, 2008, Respondent's investors nationwide held a balance of
5 approximately \$581 million in ARPS, and approximately \$870 million altogether in the ARS
6 market, that had lost liquidity as the result of the collapse of the auction process.

7 **Failure to Supervise**

8 36. Respondent had a policy of hiring experienced FAs who, presumably, had been
9 trained by other employers with regard to the securities they handled. However, Respondent
10 provided no formal training to its FAs with respect to ARPS.

11 37. Respondent's FAs were directly supervised by a branch manager whose supervisory
12 responsibilities were set out in Branch Policies and Procedures manuals. In addition, FAs were
13 provided with a Registered Representatives Manual that governed their professional practice.
14 None of these documents specifically addressed the need for FAs to advise ARPS customers of
15 the risks of auction failure and loss of liquidity. Respondent maintained a policy of reviewing
16 FA-investor phone conversations and account records on a random basis and providing feedback.
17 Despite these supervisory reviews, FAs continued to advise ARPS investors that ARPS were
18 highly liquid "7-day paper," without the additional context that ARPS were in fact long term
19 instruments that could only be liquidated at successful Dutch-style auctions.

20 38. Even when the significant risk of auction failure with regard to other types of ARS
21 became apparent, FAs were not instructed to provide any warning about the risk of ARPS
22 illiquidity.

23 39. Respondent should have known that its FAs marketed ARS to customers as highly
24 liquid and as an alternative to cash or money market funds without adequately disclosing that
25 ARS are complex securities that may become illiquid.

26 40. In connection with the marketing of ARS, Respondent failed to adopt policies and

1 procedures reasonably designed to ensure that its FAs recommended ARS only to customers who
2 had stated investment objectives that were consistent with their purchase of ARS. Some of
3 Respondent's FAs recommended ARS to customers as a liquid, short-term investment. As a
4 result, some of Respondent's customers who needed short-term access to funds invested in ARS
5 even though ARS had long-term or no maturity dates.

6 **III.**

7 **CONCLUSIONS OF LAW**

8 41. The Director has jurisdiction over this matter pursuant to ORS 59.235 and ORS
9 59.245.

10 42. By engaging in the acts and conduct set forth in paragraphs II.2 through II.40,
11 Respondent failed to reasonably supervise its securities salespersons in connection with the
12 marketing of ARS to its customers, in violation of ORS 59.205(13).

13 **IV.**

14 **ORDER**

15 On the basis of the Findings of Fact, Conclusions of Law, and Respondent's consent to
16 the entry of this Order, without admitting or denying the facts or conclusions herein,

17 **IT IS HEREBY ORDERED:**

18 1. This Order concludes the investigation by the Director and staff and precludes any
19 other action that the Director or staff could commence against the Respondent under the Oregon
20 Securities Law on behalf of Oregon as it relates to Respondent's sale of ARS prior to February
21 13, 2008.

22 2. This Order is entered into solely for the purpose of resolving the above-referenced
23 multi-state investigation, and is not intended to be used for any other purpose.

24 3. Respondent shall cease and desist from violating ORS 59.205(13) and will comply
25 with ORS 59.205(13).

26 4. Within 10 days from the entry of this Order, Respondent shall pay the sum of





1 \$66,508.35 (sixty-six thousand five hundred eight dollars and thirty-five cents) to the Oregon
2 Department of Consumer and Business Services (“DCBS”). This sum includes a civil penalty of
3 \$63,182.93 (sixty-three thousand one hundred eighty-two dollars and ninety-three cents) for the
4 General Fund of the Oregon State Treasury, pursuant to ORS 59.995(1), and \$3,325.42 (three
5 thousand three hundred twenty-five dollars and forty-two cents) for the DCBS Consumer
6 Financial Education Account. This amount constitutes Oregon’s proportionate share of the total
7 state settlement amount of \$5 million dollars. In the event another state securities regulator
8 determines not to accept Respondent’s settlement offer, the total amount of the payment to the
9 state of Oregon shall not be affected.

10 5. Respondent shall take certain measures with respect to current and former customers
11 with respect to “Eligible ARS”, as defined below in Paragraph IV.6.

12 6. “Eligible ARS.” For purposes of this Order, “Eligible ARS” means ARS that
13 Respondent’s customers purchased through Respondent, or through an entity acquired by
14 Respondent, on or before February 13, 2008, and that have failed at auction at least once since
15 February 13, 2008.

16 7. “Eligible Investors”. For purposes of this Order, “Eligible Investors,” shall mean the
17 following:

18 (a) Current and former account holders who purchased Eligible ARS through
19 Respondent on or before February 13, 2008, whether or not such Eligible ARS were transferred
20 away from Respondent, and held those securities on February 13, 2008.

21 (b) As for customers who purchased Eligible ARS from an entity acquired by
22 Respondent, only those customers who became customers of Respondent and transferred their
23 ARS holdings to Respondent following the acquisition shall be considered “Eligible Investors.”

24 8. Not Included In the Definition of “Eligible Investors.” “Eligible Investors” for the
25 purposes of this Order, shall not include the following:

26 (a) Senior management of Respondent and its predecessors or Respondent’s FAs/



1 registered representatives/securities salespersons.

2 (b) Customers who, as a result of prior legal proceedings with E*TRADE, have
3 previously had claims adjudicated.

4 (c) Customers who received par value for their ARS through a sale, issuer
5 redemption, or payment from Respondent.

6 9. Purchase Offer. Respondent shall offer to purchase (or offer to arrange a third party
7 to purchase), at par plus accrued and unpaid dividends/interest, from Eligible Investors their
8 Eligible ARS that have failed at auction at least once since February 13, 2008 (the “Purchase
9 Offer”).

10 10. Notification and Buyback Procedures.

11 a. Respondent shall create a written notice related to the Purchase Offer (the
12 “Notice”). The Notice shall explain the relevant terms of this Order and describe what Eligible
13 Investors must do to accept, in whole or in part, the Purchase Offer, including how Eligible
14 Investors may accept the Purchase Offer.

15 b. Initial Notice

16 i. Respondent shall provide the Notice to Eligible Investors who purchased
17 Eligible ARS with Respondent by January 16, 2012.

18 ii. Furthermore, by January 16, 2012, Respondent shall undertake its best
19 efforts to identify and locate customers who purchased Eligible ARS with Respondent but who
20 transferred such Eligible ARS away from Respondent between February 13, 2008 and November
21 16, 2011. Respondent will provide any such customers the Purchase Offer described in Section
22 IV.9, the Notification and Buyback Procedures described in Section IV.10, and the other terms
23 described in Sections IV.11, IV.12, and IV.13.

24 c. Second Notice

25 With respect to each Eligible Investor that Respondent sent the Notice required by
26 Paragraph IV.10.b above and who did not respond, Respondent shall provide a second copy of



1 the Notice on or before March 30, 2012.

2 d. Offer Period

3 i. Respondent shall keep the Purchase Offer open until May 15, 2012
4 (“Offer Period”).

5 ii. Eligible Investors may accept the Purchase Offer by notifying Respondent
6 as described in the Purchase Offer, at any time before 11:59 P.M. Eastern Time, on or before the
7 last day of the Offer Period. For those Eligible Investors who accept the Purchase Offer within
8 the Offer Period, Respondent shall purchase or arrange to have purchased their Eligible ARS by
9 no later than five (5) business days following Respondent’s receipt of such Eligible Investor’s
10 acceptance.

11 e. An Eligible Investor may revoke their acceptance of Respondent’s Purchase Offer
12 at any time up until Respondent’s purchase of such Eligible Investor’s Eligible ARS.

13 f. Respondent’s obligation to those Eligible Investors who transferred their Eligible
14 ARS away from Respondent prior to November 16, 2011 shall be contingent on: (1) Respondent
15 receiving reasonably satisfactory assurances from the financial institution currently holding the
16 Eligible Investor’s Eligible ARS that the bidding rights associated with such Eligible ARS will
17 be transferred to Respondent; and (2) the transfer to, and receipt in good order by, Respondent of
18 Eligible ARS.

19 g. Respondent shall use its best efforts to identify, contact and assist any Eligible
20 Investor who has transferred the Eligible ARS out of Respondent’s custody in returning such
21 ARS to Respondent’s custody, and shall not charge such Eligible Investor any fees relating to or
22 in connection with the return to Respondent or custodianship by Respondent of such Eligible
23 ARS.

24 11. Customer Assistance. By no later than the date of the Initial Notice, Respondent shall
25 establish a dedicated toll-free telephone assistance line and website to provide information and to
26 respond to questions concerning the terms of this Order, and to provide information concerning



1 the terms of this Order and, via an e-mail address or other reasonable means, to respond to
2 questions concerning the terms of this Order. Respondent shall maintain the telephone assistance
3 line until August 16, 2012.

4 12. Relief for Eligible Investors Who Sold Below Par. By January 16, 2012, Respondent
5 shall use its best efforts to identify each Eligible Investor who: (i) purchased Eligible ARS from
6 Respondent on or before February 13, 2008; and (ii) who sold those Eligible ARS below par
7 between February 13, 2008 and November 16, 2011 (“Below Par Sellers”). By January 31,
8 2012, Respondent shall pay each Below Par Seller the difference between par and the price at
9 which the Below Par Seller sold the Eligible ARS, plus reasonable interest thereon.
10 Furthermore, Respondent will pay promptly the difference between par and the price at which
11 the Below Par Seller sold the Eligible ARS, plus reasonable interest thereon to any Below Par
12 Sellers identified after January 31, 2012.

13 13. Consequential Damages Arbitration Process.

14 a. Respondent shall consent to participate in a special arbitration process
15 (“Arbitration”) for the exclusive purpose of arbitrating any Eligible Investor’s consequential
16 damages claim arising from their inability to sell Eligible ARS. In the Arbitration, the Special
17 Arbitration Process applicable to firms that have entered into settlements with state regulators
18 (the “State SAP”) will be available for the exclusive purpose of arbitrating any Eligible
19 Investor’s consequential damages claim. By January 16, 2012, Respondent shall notify Eligible
20 Investors of the terms of the Arbitration process through the Notice as set forth in Paragraph
21 IV.10.b.

22 b. The Arbitration shall be conducted under the auspices of FINRA, pursuant to the
23 NASD Code of Arbitration Procedures for Customer Disputes, eff. April 16, 2007. Respondent
24 will pay all applicable forum and filing fees.

25 c. Any Eligible Investors who choose to pursue such claims in the Arbitration shall
26 bear the burden of proving that they suffered consequential damages and that such damages were



1 caused by their inability to access funds invested in Eligible ARS. In the Arbitration,
2 Respondent shall be able to defend itself against such claims; provided, however, that
3 Respondent shall not contest liability for the illiquidity of the underlying ARS position or use as
4 part of its defense any decision by the Eligible Investor not to borrow money from Respondent.

5 d. Eligible Investors who elect to use the Arbitration provided for herein shall not be
6 eligible for punitive damages, or for any other type of damages other than consequential
7 damages. However, the State SAP will govern the availability of attorney's fees.

8 14. Loan Interest Expense.

9 By January 16, 2012, Respondent shall use its best efforts to identify Eligible Investors
10 that obtained a loan through Respondent (or its affiliates) secured by Eligible ARS that were not
11 successfully auctioning at the time the loan was taken and who paid more in interest on the loan
12 than the Eligible Investor received in interest or dividends from the Eligible ARS during the time
13 the loan was outstanding ("Negative Carry"). Respondent, on or before January 16, 2012, will
14 reimburse the Eligible Investor the amount of Negative Carry actually paid.

15 15. Reports and Meetings

16 a. Respondent shall submit quarterly reports to the Colorado Division of Securities
17 detailing Respondent's progress with respect to the provisions of this Order within ten (10) days
18 from the month when a quarterly report is due, beginning with a report covering the quarter
19 ending December 31, 2011 and continuing through and including a report covering the quarter
20 ending December 31, 2012.

21 b. Beginning December 21, 2011, Respondent shall confer via telephone at least
22 quarterly with the Colorado Division of Securities regarding Respondent's progress with respect
23 to the provisions of this Order. Such quarterly telephone conferences shall continue until
24 December 31, 2012.

25 c. The reporting and telephone conference deadlines set forth above may be
26 amended or modified with written permission from the Colorado Division of Securities.



1 d. At the conclusion of the Purchase Offer, Respondent shall provide a report to the
2 Colorado Division of Securities concerning all customers nationwide impacted by Respondent's
3 Purchase Offer and/or reimbursement to those who sold below par.

4 16. This Order is not intended to indicate that Respondent or any of its affiliates or
5 current or former officers, directors, trustees, agents, members, partners, or employees (and of
6 any of Respondent's parent companies, subsidiaries or affiliates) shall be subject to any
7 disqualifications contained in the federal securities laws, the rules and regulations thereunder, the
8 rules and regulations of self regulatory organizations or various states' securities laws including
9 any disqualifications from relying upon the registration exemptions or safe harbor provisions. In
10 addition, this Order is not intended to form the basis for any such disqualifications.

11 17. Except in an action by the Director to enforce the obligations of Respondent in this
12 Order, this Order may neither be deemed nor used as an admission of or evidence of any alleged
13 fault, omission or liability of Respondent in any civil, criminal, arbitration or administrative
14 proceeding in any court, administrative agency or tribunal. For any person or entity not a party
15 to this Order, this Order does not limit or create any private rights or remedies against
16 Respondent or any of its affiliates or current or former officers, directors, trustees, agents,
17 members, partners, or employees (and of any of Respondent's parent companies, subsidiaries or
18 affiliates) including, without limitation with respect to the use of any emails or other documents
19 of Respondent or of others concerning the marketing and/or sales of ARS, limit or create liability
20 of Respondent, or limit or create defenses of Respondent to any claims.

21 18. This Order is not intended to disqualify Respondent or any of its affiliates or current
22 or former officers, directors, trustees, agents, members, partners, or employees (and of any of
23 Respondent's parent companies, subsidiaries or affiliates) from any business that they otherwise
24 are qualified or licensed to perform under applicable state securities law and this Order is not
25 intended to form the basis for any disqualification. This Order may not be read to indicate that
26 Respondent or any of its affiliates or current or former officers, directors, trustees, agents,

1 members, partners, or employees (and of any of Respondent’s parent companies, subsidiaries or
2 affiliates) engaged in fraud or to serve as the basis for any future independent action to establish
3 a violation of any federal laws, the rules or regulations thereunder, or the rules and regulations of
4 self-regulatory organizations.

5 DATED this 15th day of February, 2012.

6 PATRICK ALLEN, Acting Director
7 Department of Consumer and Business Services

8
9 /s/ David Tatman
10 David Tatman, Administrator
11 Division of Finance and Corporate Securities

12 **CONSENT TO ENTRY OF ORDER BY E*TRADE SECURITIES LLC**

13 E*TRADE Securities LLC (“Respondent”) hereby acknowledges that it has been served
14 with a copy of this Order to Cease and Desist, Order Assessing Civil Penalty and Consent to Entry
15 of Order (“Order”), has read the foregoing Order, is aware of its right to a hearing and appeal in this
16 matter, and has waived the same.

17 Respondent admits the jurisdiction of the Director, neither admits nor denies the Findings of
18 Fact and Conclusions of Law contained in this Order, and consents to entry of this Order by the
19 Director as settlement of the issues contained in this Order.

20 Respondent shall not claim, assert, or apply for a tax deduction or tax credit with regard
21 to any state, federal, or local tax for any administrative monetary payment that Respondent shall
22 pay pursuant to this Order.

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26 ///

Division of Finance and Corporate Securities
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350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



1 Respondent states that no promise of any kind or nature whatsoever was made to it to induce
2 it to enter into this Order and that it has entered into this Order voluntarily.

3 James E. Ballowe, Jr. represents that he/she is General Counsel of E*TRADE
4 Securities LLC and that, as such, has been authorized by E*TRADE Securities LLC to enter into
5 this Order for and on behalf of E*TRADE Securities LLC.

6
7 E*TRADE SECURITIES LLC

8 By: /s/ James E. Ballowe, Jr.

9 Title: General Counsel

10 STATE OF Virginia)

11)

12 County of Arlington)

13 SUBSCRIBED AND SWORN TO before me this 9th day of February,
14 2012.

15
16
17 /s/ Christopher C. Horak

18 Notary Public

19 My commission expires:

20 May 31, 2012
21

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