

The Professional Liability Law Blog

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INSURANCE PROFESSIONALS, ACCOUNTANTS AND STOCK BROKERS



[Online Broker Not Liable for Preventing Investor from Losing Money](#)

Thursday, January 6th, 2011

On January 4, 2011 the U.S. District Court for the Eastern District of California issued unpublished opinion dismissing claims by an investor against online broker TD Ameritrade. In *Holland v. TD Ameritrade, Inc.*, 2011 U.S. Dist. LEXIS 395, an investor who apparently lost money trading online brought claims against the broker for, among other things, RICO violations, securities fraud and negligence.

Under the negligence claims, the investor claimed that the broker “failed to set up safeguards to identify and/or protect plaintiff against harmful trading. Plaintiff demonstrated a lack of understanding and need for protection and/or supervision, but defendant allowed plaintiff to continue to act even after knowing the harm to plaintiff. This allowed defendant to continue to profit from Plaintiff’s harm.” The investor’s negligence claims all related to some failure to protect the investor from his own actions. The court ruled that no duty existed to support these claims.

The court granted broker’s Rule 12(b)(6) motion as to all claims, with limited leave to amend. The court also said that the broker could seek arbitration in response to any amended complaint filed by the investor.