

INITIAL DECISION RELEASE NO. 301  
ADMINISTRATIVE PROCEEDING  
FILE NO. 3-12062

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
November 29, 2005

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In the Matter of	:	
	:	
E TRADE SYSTEMS, INC., (formerly	:	ORDER DISMISSING
known as Personal Portals Online, Inc.)	:	PROCEEDING
	:	

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The Securities and Exchange Commission (Commission) issued its Order Instituting Proceeding (OIP) on September 30, 2005. E Trade Systems, Inc., formerly known as Personal Portals Online, Inc. (E Trade), was served with the OIP, through counsel, on October 18, 2005, and filed its Answer on October 24, 2005. Under consideration is the motion by the Division of Enforcement (Division), filed November 23, 2005, to amend the OIP pursuant to Rule 200(d)(2) of the Commission's Rules of Practice (Motion).

The OIP charges Respondent E Trade with violations of Section 13(a) of the Securities Exchange Act of 1934 (Exchange Act) and Rules 13a-1 and 13a-13 thereunder. In its Answer, E Trade contends that it never filed a registration under Section 12(g) of the Exchange Act and that the proceeding was filed erroneously against it. In its Motion, the Division concedes that E Trade is not the proper respondent and requests that the undersigned change the caption of the proceeding to read "In the Matter of Naturally Niagara Beverage Corporation (and its successors)", and change the description of the respondent. Should these amendments be granted, the Division further requests that the proceeding against E Trade be dismissed and it be permitted a reasonable period of time to serve the new proper respondent.

The Division is, in effect, asking that the proceeding against E Trade be dismissed, and that charges against Naturally Niagara Beverage Corporation be instituted. However, the Commission has not delegated its authority to administrative law judges to initiate new charges or to expand the scope of matters set down for hearing beyond the framework of the original OIP. See J. Stephen Stout, 52 S.E.C. 1162, 1163 n.2 (1996); cf. Steven Wise, 81 SEC Docket 2774 (Nov. 26, 2003).

Since the Division concedes that E Trade is not the proper respondent, this proceeding shall be, and hereby is, DISMISSED. The institution of an administrative proceeding against a different respondent may only be initiated by the Commission.

IT IS SO ORDERED.

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Robert G. Mahony  
Administrative Law Judge