

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Jimi Epps

Case No. 00-03493

Name of Respondent

Ameritrade, Inc.

Hearing Site: Atlanta, Georgia

REPRESENTATION OF PARTIES

For Jimi Epps ("Epps"), hereinafter referred to as "Claimant": Mark F. Raymond, Esq. and Walter J. Mathews, Esq., Tew Cardenas Rebak Kellogg Lehman DeMaria Tague Raymond & Levine, L.L.P., Miami, Florida and Alex James Moore, Esq., Savannah, Georgia.

For Ameritrade, Inc. ("Ameritrade"), hereinafter referred to as "Respondent": Patrick B. Griffin, Esq. and Suzanne M. Shehan, Esq., Kutak Rock LLP, Omaha, Nebraska.

CASE INFORMATION

Statement of Claim filed on or about: August 10, 2000.

Claimant signed the Uniform Submission Agreement: August 10, 2000.

Answer and Affirmative Defenses to Statement of Claim filed by Respondent on or about: October 23, 2000.

Respondent signed the Uniform Submission Agreement: October 1, 2000.

CASE SUMMARY

Claimant asserted the following causes of action: fraud; negligent supervision; and, breach of contract. The causes of action relate to the order execution of MFNX January 2002 85 call options.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant is a sophisticated web-enabled trader; Claimant's claims are barred by the Federal Telecommunications Act, 47 U.S.C. Section 230; there was no fraud or other intentional misrepresentations; there was no negligent supervision and grounds do not exist for said claim; impossibility of performance bars Claimant's contract claim; the erroneous nature of the mistaken quote data bars Claimant's contract claim; if such a

contract exists, said contract is subject to reformation in equity; and, Claimant's damages, if any, are limited to his actual out-of-pocket loss.

RELIEF REQUESTED

Claimant requested total damages of approximately \$4,500,000.00 which includes Claimant's financial losses of \$817,231.18; potential profits of up to \$1,503,000.00; all dealer profits, markups, markdowns, commissions and fees received by Respondent; punitive damages in the sum of \$1,500,000.00; reasonable attorneys' fees; all expenses incurred by Claimant as a result of this matter; interest; and, all such further relief which the Panel deemed to be appropriate.

Respondent requested a dismissal of Claimant's claim in its entirety. Further, Respondent requested that in the event the Panel determines that Claimant is entitled to any compensation, that amount should be limited to Claimant's losses incurred as a result of his purchases and the resultant liquidation of his positions, plus commissions net the \$26,000.00 Respondent paid Claimant in its attempts to fairly resolve this matter.

OTHER ISSUES CONSIDERED AND DECIDED

Upon the completion of Claimant's case, Respondent made a motion to dismiss which asserted that the claim was barred by the Federal Telecommunications Act, 47 U.S.C. Section 230 and Claimant's failure to prove the elements of the claim. The Panel granted a dismissal of the fraud allegation and denied all other aspects of Respondent's motion.

The parties 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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable and shall pay to Claimant the sum of \$89,000.00 plus pre-judgment interest at the rate of 7% per annum from March 15, 2000 until the date of the Award and post-judgment interest at the rate of 12% per annum from the date of the Award until the date of payment of the Award.

Respondent is liable and shall pay to Claimant the sum of \$6,476.47 representing reimbursement of Claimant's disbursements associated with bringing this arbitration.

Respondent is liable and shall pay to Claimant the sum of \$600.00 representing

reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution, Inc.

Any and all relief not specifically addressed herein, including Claimant's request for punitive damages, is denied.

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

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$600.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$2,500.00
Pre-hearing process fee	= \$600.00
Hearing process fee	= \$4,500.00

Adjournment Fees

Adjournments requested during these proceedings:

There were no adjournments requested during these proceedings.

Forum Fees and Assessments

The panel has the authority to assess 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(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two Pre-hearing sessions with Panel x \$1,200.00	= \$2,400.00
Pre-hearing conferences: March 1, 2001	1 session
June 15, 2001	1 session

Four Hearing sessions x \$1,200.00	= \$4,800.00
Hearing Dates: July 23, 2001	2 sessions
July 24, 2001	2 sessions

Total Forum Fees	= \$7,200.00
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The panel has assessed the total forum fees of \$7,200.00 to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$600.00
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Total Fees	= \$600.00
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Less payments	= \$600.00
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Balance Due NASD Dispute Resolution, Inc.	= \$0.00
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Respondent be and hereby is solely liable for:

Member Fees	= \$7,600.00
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Forum Fees	= \$7,200.00
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Total Fees	= \$14,800.00
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Less payments	= \$7,600.00
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Balance Due NASD Dispute Resolution, Inc.	= \$7,200.00
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All balances are due and payable to NASD Dispute Resolution, Inc. immediately upon the receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

<i>John G. Manley, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>A. Keith Logue, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Barbara L. Guzman</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

_____/S/_____
John G. Manley, Esq.
Public Arbitrator, Presiding Chair

Signature Date

_____/S/_____
A. Keith Logue, Esq.
Public Arbitrator

Signature Date

_____/S/_____
Barbara L. Guzman
Non-Public Arbitrator

Signature Date

September 18, 2001
Date of Service (For NASD-Dispute Resolution office use only)

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee = \$600.00

Total Fees = \$600.00

Less payments = \$600.00

Balance Due NASD Dispute Resolution, Inc. = \$0.00

Respondent be and hereby is solely liable for:

Member Fees = \$7,600.00

Forum Fees = \$7,200.00

Total Fees = \$14,800.00

Less payments = \$7,600.00

Balance Due NASD Dispute Resolution, Inc. = \$7,200.00

All balances are due and payable to NASD Dispute Resolution, Inc. immediately upon the receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

<i>John G. Manley, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>A. Keith Logue, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Barbara L. Guzman</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures


John G. Manley, Esq.
Public Arbitrator, Presiding Chair

9/10/01
Signature Date



A. Keith Logue, Esq.
Public Arbitrator

7/10/01

Signature Date

Barbara L. Guzman
Non-Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

A. Keith Logue, Esq.
Public Arbitrator

Signature Date

Barbara L. Guzman
Barbara L. Guzman
Non-Public Arbitrator

9-10-01
Signature Date

Date of Service (For NASD-Dispute Resolution office use only)