

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:
Paul DePatie, Claimant v. Ameritrade, Inc., Respondent

Case Number: 00-05422

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant:

William F. Davis, Esq.
Law Offices of William F. Davis
Los Angeles, California

For Respondent:

Andrew J. Harger, Esq.
Ameritrade, Inc.
Bellevue, Nebraska

CASE INFORMATION

Statement of Claim filed: December 5, 2000

Claimant's Uniform Submission Agreement signed: December 1, 2000

Statement of Answer filed by Respondent Ameritrade, Inc.: January 26, 2001

Respondent's Uniform Submission Agreement signed: January 26, 2001

CASE SUMMARY

Claimant alleged breach of contract, negligence, breach of fiduciary duty, and violation of NASD Conduct Rule 2110. The allegations arose out of the sale by Ameritrade, Inc., of securities in V3, Inc., in order to meet an alleged margin call for the customer's account on April 17, 2001.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested compensatory damages of \$50,748.78, punitive damages and attorney's fees.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety and reimbursement of arbitration costs.

OTHER ISSUES CONSIDERED AND DECIDED

On December 12, 2001, the parties stipulated to removing an arbitrator, and agreed to proceed with a two arbitrator Panel.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent is liable to and shall pay Claimant \$9,510.00 in compensatory damages.
- 2) Respondent is liable to and shall pay Claimant \$1,829.00 in interest.
- 3) Respondent is liable to and shall pay Claimant \$3,800.00 for attorney's fees pursuant to the parties' customer agreement.
- 4) Except where noted above, each party shall bear its own costs.
- 5) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 225.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm, Ameritrade, Inc., is a party and the following fees are assessed:

Member Surcharge	= \$ 1,000.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 1,500.00</u>
Total Member Fees	= \$ 3,100.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conference: September 10, 2001 (1 session)	
1 Hearing session @ \$750.00/session	= \$ 750.00
Hearing: December 12, 2001 (1 session)	
Total Forum Fees	= \$1,500.00

The Panel assessed \$1,500.00 of the forum fees to Respondent, Ameritrade, Inc.

Fee Summary

1. Claimant, Paul DePatie, is charged with the following fees and costs:

<u>Initial Filing Fee</u>	= \$ 225.00
<u>Total Fees</u>	= \$ 225.00
<u>Less payments</u>	= \$ (975.00)
Refund Due Claimant	= \$ (750.00)

2. Respondent, Ameritrade, Inc., is charged with the following fees and costs:

Member Fees	= \$ 3,100.00
<u>Forum Fees</u>	<u>= \$ 1,500.00</u>
<u>Total Fees</u>	<u>= \$ 4,600.00</u>
<u>Less payments</u>	<u>= \$(3,100.00)</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,500.00

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

ARBITRATION PANEL

Jack A. Weichman, Esq.
Walter W. Klosterman

- Presiding Chair, Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures


Jack A. Weichman, Esq.
Chair, Public Arbitrator

1/7/02
Signature Date

Walter W. Klosterman
Non-Public Arbitrator

Signature Date

1/7/02
Date of Service

NASD Dispute Resolution, Inc.

Arbitration No. 00-05422

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ARBITRATION PANEL

Jack A. Weichman, Esq.

Walter W. Klosterman

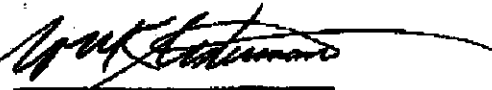
- Presiding Chair, Public Arbitrator

- Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jack A. Weichman, Esq.
Chair, Public Arbitrator

Signature Date



Walter W. Klosterman
Non-Public Arbitrator



Signature Date



Date of Service