

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

John W. Dundon and Janet Clayton, (Claimants) vs. Ameritrade, Inc. and Advanced Clearing, Inc., (Respondents)

Case Number: 01-00774

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimants, John W. Dundon ("Dundon") and Janet Clayton ("Clayton"), hereinafter collectively referred to as "Claimants": Patrick J. McGrath, Esq., a sole practitioner, Amityville, NY.

Respondents, Ameritrade, Inc. ("Ameritrade") and Advanced Clearing, Inc. ("Advanced"), hereinafter collectively referred to as "Respondents": James J. Vihstadt, Esq., Regulatory Counsel, Ameritrade, Inc., Bellevue, NE.

CASE INFORMATION

Statement of Claim filed on or about: February 14, 2001.

Dundon signed the Uniform Submission Agreement: September 30, 2000.

Clayton signed the Uniform Submission Agreement: September 30, 2000.

Statement of Answer and Counterclaim filed by Respondents on or about: March 26, 2001.

Ameritrade signed the Uniform Submission Agreement: March 21, 2001.

Advanced signed the Uniform Submission Agreement: March 26, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: unauthorized transaction and violation of fiduciary duty. Claimants' claim involved the stock of Cellular Products, Inc.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim fails to state a claim upon which relief can be granted; the Statement of Claim fails to particularize facts establishing a legal theory under which Respondents could be held liable for any alleged damages; Claimants are barred from any recovery because they directed, authorized, consented to, acquiesced in, and/or ratified all transactions in the account at issue;

Respondents are not liable to Claimants for any amount because, at all times relevant herein, Respondents acted properly and in good faith with regard to Claimants' account; and Ameritrade properly handled Claimants' order, updated their account when the execution of that order was reported, and notified Claimants that the order had been executed.

In their Counterclaim, Respondents asserted the following cause of action: failure to pay debit balance in account.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$12,400.00, punitive damages in the amount of \$17,600.00, and such other and further relief as the Panel deems just and proper.

In their Answer and Counterclaim, Respondents requested that:

1. The Statement of Claim be dismissed; and
2. An Award for Ameritrade be entered, in the amount of \$10,363.62, plus costs and interest.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents be and hereby are jointly and severally liable to Claimants in the amount of \$10,363.62 as compensatory damages, and Claimants be and hereby are jointly and severally liable to Respondents in the amount of \$10,363.62 as compensatory damages. Since Claimants and Respondents are jointly and severally liable to each other in the same amount, the parties need not exchange any funds to satisfy the Award in this matter.
2. Claimants' request for punitive damages is hereby denied.
3. All other requests for relief are hereby denied.

FEES

Pursuant to 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	= \$ 150.00
Counterclaim filing fee	= \$ 750.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. In this matter, Ameritrade, Inc. and Advanced Clearing, Inc. are parties.

Ameritrade, Inc.

Member surcharge	= \$ 600.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,000.00

Advanced Clearing, Inc.

Member surcharge	= \$ 600.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,000.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$600.00	= \$ 600.00
Pre-hearing conference: July 25, 2001	1 session

Two (2) Hearing sessions x \$600.00	= \$1,200.00
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Hearing Date: October 19, 2001	2 sessions
Total Forum Fees	= \$1,800.00

1. The Panel has assessed \$900.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$900.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 150.00
Forum Fees	= \$ 900.00
Total Fees	= \$1,050.00
Less payments	= \$ 750.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 300.00

2. Ameritrade be and hereby is solely liable for:

Member Fees	= \$2,200.00
Total Fees	= \$2,200.00
Less payments	= \$2,200.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

3. Advanced be and hereby is solely liable for:

Member Fees	= \$2,200.00
Total Fees	= \$2,200.00
Less payments	= \$2,200.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

4. Respondents be and hereby are jointly and severally liable for:

Counterclaim Filing Fee	= \$ 750.00
Forum Fees	= \$ 900.00
Total Fees	= \$1,650.00
Less payments	= \$1,200.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 450.00

All balances are due and payable to NASD Dispute Resolution, Inc.

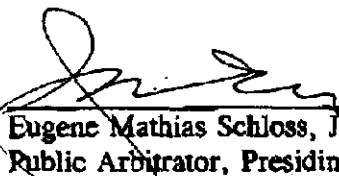
ARBITRATION PANEL

Eugene Mathias Schloss, Jr., Esq. -
Bennett A. Hall -
James J. O'Donnell -

Public Arbitrator, Presiding Chair
Public Arbitrator
Industry Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.


Eugene Mathias Schloss, Jr., Esq.
Public Arbitrator, Presiding Chair

11/20/01
Signature Date

Bennett A. Hall
Public Arbitrator

Signature Date

James J. O'Donnell
Industry Arbitrator

Signature Date

November 20, 2001
Date of Service (For NASD office use only)

ARBITRATION PANEL

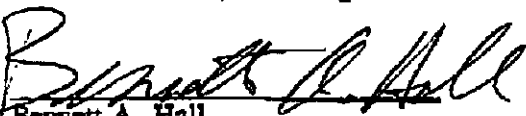
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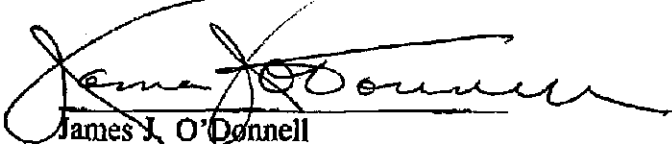
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Signature Date

Bennett A. Hall
Public Arbitrator

Signature Date



James J. O'Donnell
Industry Arbitrator

11/15/01

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November 20, 2001

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