

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Ehson Salaami, Claimant v. Datek Online Financial Services, LLC and Ameritrade, Inc.,  
Respondents

Datek Online Financial Services, LLC and Ameritrade, Inc., Counter-Claimants v. Ehson Salaami,  
Counter-Respondent

Case Number: 04-02702

Hearing Site: San Diego, California

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Nature of the Disputes: Customer v. Members  
Members v. Customer

**REPRESENTATION OF PARTIES**

For Claimant/Counter-Respondent: Ehson Salaami  
In Pro Per  
La Jolla, California

For Respondents/Counter-Claimants: James J. Vihstadt, Esq.  
Ameritrade, Inc.  
Bellevue, Nebraska

**CASE INFORMATION**

Statement of Claim filed: April 10, 2004

Claimant/Counter-Respondent's Response to Counterclaim and Motion to Dismiss Counterclaim  
filed: June 10, 2004

Claimant/Counter-Respondent's Uniform Submission Agreement signed: April 9, 2004

Joint Statement of Answer and Counterclaim filed by Respondents/Counter-Claimants:  
June 2, 2004

Joint Reply to Claimant/Counter-Respondent's Response to Respondents/Counter-Claimants'  
Motion to Dismiss received by Respondents/Counter-Claimants: June 22, 2004

Respondent/Counter-Claimant Datek Online Financial Services, LLC's Uniform Submission Agreement signed: June 2, 2004

Respondent/Counter-Claimant Ameritrade, Inc.'s Uniform Submission Agreement signed: June 2, 2004

### **CASE SUMMARY**

In his Statement of Claim, Claimant/Counter-Respondent alleged violation of NASD rules and California state law, breach of contract, negligence, breach of fiduciary duty, misrepresentation, violation of California Rosenthal Fair Debt Collection Practices Act, and "Failure to validate debt when disputed. Seizing property, and threatening to liquidate when not having the right to do so, and not actually doing so. Unfairly seizing all of my accounts which have a value greater than the alleged debt." The dispute involved, among other unspecified securities, Echelon stock.

Respondents/Counter-Claimants denied the allegations of wrongdoing set forth in the Claimant/Counter-Respondent's Statement of Claim and asserted various affirmative defenses.

In their Counterclaim, Respondents/Counter-Claimants alleged failure to pay a debit balance.

Claimant/Counter-Respondent denied the allegations of wrongdoing set forth in Respondents/Counter-Claimants' Counterclaim and moved to dismiss the counterclaim as time barred by a statute of limitations.

### **RELIEF REQUESTED**

In his Statement of Claim and Claim Information Sheet, Claimant/Counter-Respondent requested 10% of his account equity owed in the amount of \$3,862.16, plus interest from January 13, 2000 to April 10, 2004, \$1,000 for the multiple violations of California's Fair Debt Collection Practices Act, \$5,137.84 in punitive damages, reimbursement of filing fees in the amount of \$325.00, arbitration costs, and the unfreezing of accounts.

Respondents/Counter-Claimants requested dismissal of the Claimant/Counter-Respondent's Statement of Claim in its entirety and that all fees be assessed to Claimant/Counter-Respondent.

In their Counterclaim, Respondents/Counter-Claimants requested compensatory damages in the amount of \$5,276.37, plus interest from March 6, 2001 to the date of the Award, and costs.

Claimant/Counter-Respondent requested dismissal of Respondents/Counter-Claimants' Counterclaim in its entirety.

**OTHER ISSUES CONSIDERED AND DECIDED**

On April 15, 2004, Claimant/Counter-Respondent signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On June 2, 2004, Respondents/Counter-Claimants' counsel signed a Waiver Agreement on Respondents/Counter-Claimants' behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant/Counter-Respondent shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

The parties agreed that a handwritten, signed Award may be entered.

**AWARD**

After considering the pleadings and the testimony and evidence presented at the hearing on September 28, 2004, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents/Counter-Claimants shall forthwith remove any and all restrictions on Ehson Salaami's Accounts at Ameritrade, Inc.; specifically Accounts SALAA65917 and SALAA65133.
- 2) Except as noted in Item #1 above, Claimant/Counter-Respondent Ehson Salaami's claims are denied in their entirety.
- 3) Respondents/Counter-Claimants Datek Online Financial Services, LLC and Ameritrade, Inc.'s Counterclaim is denied in its entirety.
- 4) The parties shall bear their respective costs, including attorney's fees.
- 5) All other relief requested and not expressly granted is denied.

### **FEES**

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

#### **Filing Fees**

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

Initial claim filing fee	= \$ 75.00
Counterclaim filing fee	= \$ 500.00

#### **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 that gave rise to the dispute, claim, or controversy.

The member firm Datek Online Financial Services, LLC is a party and the following fees are assessed:

<u>Member Surcharge</u>	= \$ 325.00
<b>Total Member Fees</b>	<b>= \$ 325.00</b>

The member firm Ameritrade, Inc is a party and the following fees are assessed:

<u>Member Surcharge</u>	= \$ 325.00
<b>Total Member Fees</b>	<b>= \$ 325.00</b>

#### **Forum Fees and Assessments**

The Arbitrator 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. The following fees are assessed:

One (1) Pre-hearing conference session with the Chair @ \$250.00/session	= \$ 250.00
Pre-hearing conference: August 4, 2004 1 session	

Two (2) Hearing sessions @ \$250.00/session	= \$ 500.00
Hearing: September 28, 2004 2 sessions	

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<b>Total Forum Fees</b>	<b>= \$ 750.00</b>
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The Arbitrator assessed \$750.00 of the forum fees jointly and severally to Datek Online Financial Services, LLC and Ameritrade, Inc.

**Fee Summary**

1. Claimant/Counter-Respondent is charged with the following fees and costs:

Initial Filing Fee	= \$ 75.00
<u>Less payments</u>	= \$(325.00)
<b>Refund Due Claimant/Counter-Respondent</b>	<b>= \$(250.00)</b>
  
2. Respondent/Counter-Claimant Datek Online Financial Services, LLC is charged with the following fees and costs:

Member Fees	= \$ 325.00
<u>Less payments</u>	= \$(325.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>
  
3. Respondent/Counter-Claimant Ameritrade, Inc. is charged with the following fees and costs:

Member Fees	= \$ 325.00
<u>Less payments</u>	= \$(325.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>
  
4. Respondents/Counter-Claimants Datek Online Financial Services, LLC and Ameritrade, Inc. are charged jointly and severally with the following fees and costs:

Counterclaim Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$ 750.00
Total Fees	= \$1,250.00
<u>Less payments by Ameritrade, Inc.</u>	= \$(750.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 500.00</b>

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

NASD Dispute Resolution  
Arbitration No. 04-02702  
Award Page 6 of 6

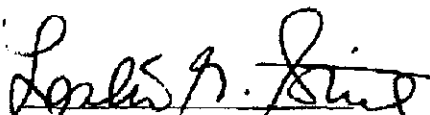
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**ARBITRATOR**

Lester G. Stiel, Esq.

- Public Arbitrator, Presiding Chair

**Arbitrator's Signature**

  
Lester G. Stiel, Esq.  
Chair, Public Arbitrator

  
Signature Date

  
Date of Service