

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

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In the Matter of the Arbitration Between:

Lawrence Adler and Lori Adler (Claimants) v. Ameritrade, Inc., (Respondent)

Case Number: 04-07698

Hearing Site: Hartford, Connecticut

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Nature of the Dispute: Customers vs. Member

**REPRESENTATION OF PARTIES**

Claimant Lawrence Adler ("L. Adler") and Lori Adler ("Lori Adler"), hereinafter collectively referred to as "Claimants": Lawrence Adler appeared *pro se*.

Respondent Ameritrade, Inc. ("Ameritrade") hereinafter referred to as "Respondent": James J. Vihstadt, Esq., Ameritrade, Inc., Omaha, NE.

**CASE INFORMATION**

Statement of Claim filed on or about: November 2, 2004.

Claimant L.H. Adler signed the Uniform Submission Agreement: November 27, 2004.

Claimant Lori Adler signed the Uniform Submission Agreement: November 27, 2004.

Statement of Answer filed by Respondent on or about: January 24, 2005.

Respondent signed the Uniform Submission Agreement: January 24, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action: negligence, breach of fiduciary duty, omission of facts and unauthorized trading. The causes of action relate to TRAC.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimants requested: compensatory damages in the amount of \$43,627.41, plus ten percent interest and punitive damages.

Respondent requested that the Statement of Claim be dismissed in its entirety and that all costs

be assessed to Claimants.

**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 Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are denied in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied.

**FEES**

Pursuant to the Code, the following fees are assessed:

**Filing Fees**

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

Initial claim filing fee = \$ 175.00

**Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Ameritrade is a party.

Member surcharge = \$ 875.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$ 1,000.00

**Forum Fees and Assessments**

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

One (1) Pre-hearing session with a sole arbitrator @ \$450.00 = \$ 450.00  
Pre-hearing conference: April 28, 2005 1 session

One (1) Hearing session @ \$450.00 = \$ 450.00  
Hearing Date: July 27, 2005 1 session

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Total Forum Fees = \$ 900.00

1. The Arbitrator has assessed \$900.00 of the forum fees to Respondent.

Fee Summary

1. Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 175.00
<u>Total Fees</u>	= \$ 175.00
<u>Less payments</u>	= \$ 625.00
<u>Refund Due Claimants</u>	= \$ 450.00

2. Respondent is solely liable for:

<u>Member Fees</u>	= \$ 2,625.00
<u>Forum Fees</u>	= \$ 900.00
<u>Total Fees</u>	= \$ 3,525.00
<u>Less payments</u>	= \$ 2,625.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 900.00

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

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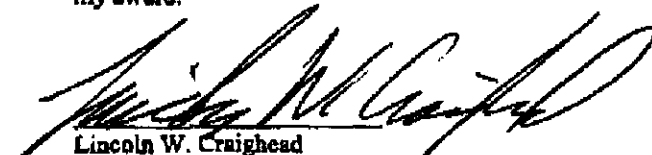
**ARBITRATION PANEL**

Lincoln W. Craighead

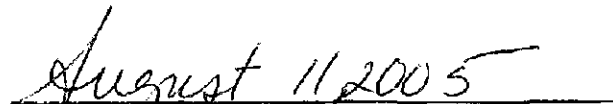
Public Arbitrator, Presiding Chairperson

**Concurring Arbitrator's Signature**

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.

  
Lincoln W. Craighead  
Public Arbitrator, Presiding Chairperson

  
Signature Date

  
Date of Service (For NASD Dispute Resolution use only)