

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:
Carl Bernard Mack, Claimant vs. Ameritrade, Inc., Respondent.

Case Number: 99-00943

Hearing Site: Seattle, Washington

REPRESENTATION OF PARTIES

Claimant, Carl Bernard Mack ("Mack"), hereinafter referred to as "Claimant": Carl Bernard Mack, Auburn, Washington

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

CASE INFORMATION

Statement of Claim filed on or about: February 26, 1999

Claimant, Carl Bernard Mack, signed the Uniform Submission Agreement: February 11, 1999

Statement of Answer filed by Respondent, Ameritrade, Inc., on or about: May 24, 1999

Arbitration Brief filed by Respondent, Ameritrade, Inc., on or about: November 19, 1999

Respondent, Ameritrade, Inc., signed the Uniform Submission Agreement: May 24, 1999

CASE SUMMARY

Claimant alleged that after he canceled his order to buy 2,281 shares of Egghead ("EGGS") stock and received Ameritrade's acknowledgment of the cancellation, the subject trade was reopened and executed against Claimant's instructions, causing Claimant's account to suffer damages.

Respondent denied Claimant's allegations of wrongdoing. Respondent alleged that it properly handled Claimant's order, with the terms as set by him, by processing that order and subsequent request to cancel that order, by routing them to a third-party execution firm, and by promptly reporting the execution of that order to him. Respondent alleged that it should not now be held liable for damages claimed by Mr. Mack which he caused himself or could have avoided with reasonable care. Respondent further alleged that Claimant's order was appropriately executed when his limit price was reached, and his request to cancel that order was received too late to effect cancellation of the order. Respondent further alleged that Claimant has not suffered any damages as a result of the purchase and subsequent sale of EGGS, and further alleged that Claimant made a profit of more than \$45,000 in less than two months, and now seeks only to improve upon those profits.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$127,000.00 plus punitive damages in the amount of \$373,000.00.

Respondent requested that the Statement of Claim be dismissed, and that costs be assessed to Claimant.

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. Respondent is liable for and shall pay to Claimant the sum of \$27,372.00 plus interest at the rate of 12% from November 30, 1998 until July 26, 2000.
2. Respondent is liable for and shall pay to Claimant the sum of \$200.00 as reimbursement for Claimant's filing fee.
3. Claimant's claim for punitive damages is denied.
4. The parties shall each bear their respective costs including attorney's fees.

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	= \$200.00
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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	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Hearing sessions x \$750.00	= \$2,250.00
Hearing Dates:	February 11, 2000 1 session
	July 26, 2000 2 sessions
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Total Forum Fees	= \$2,250.00

The Panel has assessed the \$2,250.00 in forum fees to Respondent, Ameritrade.

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. The parties did not incur administrative costs.

Fee Summary

1. Claimant, be and hereby is solely liable for:

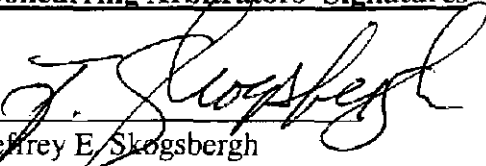
Initial Filing Fee	= \$200.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$200.00
<u>Less payments</u>	= \$950.00
Balance (Refund)	= \$750.00

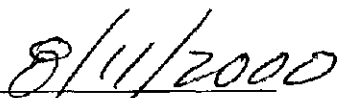
2. Respondent, Ameritrade, be and hereby is solely liable for:

Member Fees	= \$4,600.00
Forum Fees	= \$2,250.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$6,850.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Regulation, Inc.	= \$1,650.00

All balances are due to NASD Dispute Resolution, Inc. and are payable within 30 days of the service date of this Award.

Concurring Arbitrators' Signatures


Jeffrey E. Skogsbergh
Industry Arbitrator, Presiding Chair


Signature Date

Philip E. Cutler, Esq.
Public Arbitrator

Signature Date

Jonathan W. Kaiser, Esq.
Public Arbitrator
Date Served:
AUG 17 2000

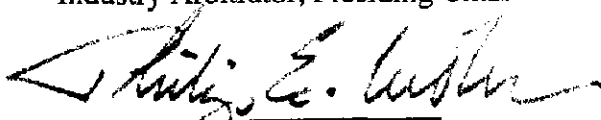
Signature Date

Date of Service (For NASD office use only)

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NASD Dispute Resolution, Inc.

Arbitration No. 99-00943

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Jeffrey E. Skogsbergh
Industry Arbitrator, Presiding Chair

Signature Date

Philip E. Cutler, Esq.
Public Arbitrator

Signature Date


Jonathan W. Kaiser, Esq.
Public Arbitrator

8/10/00
Signature Date

Date Served:
AUG 17 2000

Date of Service (For NASD office use only)