

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between

Name of Claimants

Glenn L. and Nancy G. Wenger

vs.

Case No. 99-02064

Name of Respondent

Ameritrade, Inc.

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**REPRESENTATION OF PARTIES**

Claimants, Glenn L. and Nancy G. Wenger, hereinafter collectively referred to as "Claimants":  
Paul Crowley, Esq., Downingtown, Pennsylvania

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

**CASE INFORMATION**

Statement of Claim filed on or about: May 4, 1999

Claimants signed the Uniform Submission Agreement: April 30, 1999

Statement of Answer filed by Respondent on or about: August 2, 1999

Respondent signed the Uniform Submission Agreement: June 23, 1999

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of contract; negligence; fraud and misrepresentations; negligent misrepresentation; and violation of the Pennsylvania Unfair Trade Practices and Consumer Act. These claims arise from the cancellation of Claimants' order to sell 3,000 shares of Books-A-Million (BAMM).

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted that Claimants failed to prove their case, in that they could have sold the shares when they first realized the order had been cancelled and made a profit.

### **RELIEF REQUESTED**

Claimants requested:

Compensatory Damages	\$108,506
Interest	Amount Not Specified
Attorneys' Fees	Amount Not Specified
Other Costs	Amount Not Specified

Respondent requested that the Statement of Claim be denied, and 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, and the post-hearing submissions, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondent is liable to and shall pay to Claimants \$51,000, plus six percent (6%) simple interest from December 1, 1998 until paid; and
2. That Respondent is liable to and shall pay to Claimants \$300, as reimbursement for filing fee submitted to the NASD Dispute Resolution, Inc.; and
3. That each party shall bear their own costs and expenses, with the exception of forum fees as specified below; and
4. That any and all relief not specifically addressed herein, are 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 = \$300

#### **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 event giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$1,500  
Pre-hearing process fee = \$600  
Hearing process fee = \$2,500

#### **Adjournment Fees**

Adjournment requested during these proceedings:

May 17-18, 2000, adjournment by Claimants = \$1,125

#### **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:

1 Pre-hearing session with Panel x \$1,125 = \$1,125  
Pre-hearing conference: November 15, 1999 1 session

2 Hearing sessions x \$1,125 = \$2,250  
Hearing Date: September 7, 2000 2 sessions

Total Forum Fees = \$3,375

The Panel assessed the forum fees of \$3,375 to Respondent.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$300
Adjournment Fee	= \$1,125
Total Fees	= \$1,425
Less payments	= \$2,550
Balance to be Refunded to Claimants	= \$1,125

Respondent is solely liable for:

Member Fees	= \$4,600
Forum Fees	= <u>\$3,375</u>
Total Fees	= \$7,975
Less payments	= <u>\$4,600</u>
Balance Due NASD Dispute Resolution, Inc.	= \$3,375

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

**CONCURRING ARBITRATORS' SIGNATURES**

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Charles J. Bloom, Esq.  
Public Arbitrator, Presiding Chairman

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Date Signed

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William J. McDevitt, Esq.  
Public Arbitrator

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Date Signed

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Sean M. Sweeney  
Industry Arbitrator

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Date Signed

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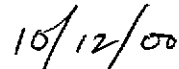
Date of Service *(For NASD-DR office use only)*

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Public Arbitrator, Presiding Chairman



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Date Signed

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Industry Arbitrator

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Charles J. Bloom, Esq.  
Public Arbitrator, Presiding Chairman

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Date Signed

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William J. McDevitt, Esq.  
Public Arbitrator

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10/9/00

Date Signed

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Sean M. Sweeney  
Industry Arbitrator

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Date Signed

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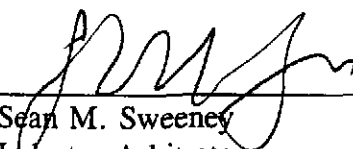
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William J. McDevitt, Esq.  
Public Arbitrator

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Date Signed

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Sean M. Sweeney  
Industry Arbitrator

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10-18-00

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Date Signed

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October 20, 2000  
Date of Service (For NASD-DR office use only)