

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Michael Falk

Case No. 99-04488

Name of Respondent

Ameritrade, Inc.

REPRESENTATION OF PARTIES

Claimant Michael Falk ("Falk"), hereinafter also referred to as "Claimant" appeared pro se.

For Ameritrade, Inc. ("Ameritrade") hereinafter also referred to as "Respondent": James J. Vihstadt, Esq. of Ameritrade, Inc., Omaha, Nebraska.

CASE INFORMATION

Statement of Claim filed on or about: October 1, 1999.

Claimant signed the Uniform Submission Agreement: October 1, 1999.

Statement of Answer filed by Respondent on or about: October 28, 1999.

Respondent's Uniform Submission Agreement signed on: February 25, 2000 by James Vihstadt, Esq. on behalf of the firm.

Claimant's Reply to Respondent's Answer filed on or about: December 28, 1999.

Amendment to Answer and Counterclaim filed by Ameritrade on or about: April 25, 2000.

CASE SUMMARY

Claimant alleged the following: Ameritrade deliberately and intentionally perpetrated a massive fraud by showing instant executions in all of their commercials when in fact they were incapable of providing executions within a half hour on most days. Further, Ameritrade did not answer their telephones for forty minutes at a time and has an internet system that is overpowered by the number of customers. Claimant maintained that on April 14, 1999, he purchased 300 shares of Florida Bank, Inc. ("FLBK") through Ameritrade but when he tried to sell the shares for a profit five minutes later Ameritrade's system was down. Fifty minutes later when the Ameritrade broker finally answered the telephone, the stock had dropped in value causing Claimant substantial financial losses.

Unless specifically admitted in its Answer, Respondent denied the allegations of wrongdoing contained in the Statement of Claim and alleged the following: Claimant could have placed an order to sell his shares of FLBK at any time following his purchase; Claimant has not demonstrated that the internet was unavailable to him and the evidence directly contradicts such a claim; Claimant could have placed a sell order using the internet, the telephone

system, directly with an Ameritrade representative or by facsimile; Claimant did not place his sell order until much later than as alleged, and that order was executed within seconds; and, Claimant has made unwarranted allegations regarding Ameritrade advertising, but has offered no proof whatsoever to support them.

Additionally, Ameritrade asserted a counterclaim against Claimant which alleged that as a result of the actions taken by Claimant, his account currently holds no positions and a debit balance of \$2,759.42 is due and owing to Ameritrade.

Claimant denied the allegations contained in the counterclaim.

RELIEF REQUESTED

Claimant requested damages in the amount of \$11,840.00 plus interest. Further, Claimant requested a dismissal of the counterclaim.

Respondent requested that the Statement of Claim be dismissed and that costs be assessed to Claimant. Further, Respondent requested relief on its counterclaim in the amount of \$2,759.42.

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 (if any), the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Ameritrade is found not liable and, therefore, all claims against it are hereby denied.
2. Respondent's counterclaim is hereby denied.
3. All other requests for 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	= \$125.00
Counterclaim filing fee	= \$400.00

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. In this matter, the member firm, Ameritrade, is a party.

Member surcharge = \$400.00

Forum Fees and Assessments

The Arbitrator 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:

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$450.00
Pre-hearing conference date: May 19, 2000 1 session

Two (2) Hearing sessions x \$450.00 = \$900.00
Hearing Date: August 23, 2000 2 sessions

Total Forum Fees = \$1,350.00

The Arbitrator has assessed \$675.00 of the forum fees to Claimant.
The Arbitrator has assessed \$675.00 of the forum fees to Respondent.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$125.00
Forum Fees	= \$675.00
Total Fees	= \$800.00
Less payments	= \$575.00
Balance Due NASD Dispute Resolution, Inc.	= \$225.00

Respondent Ameritrade be and hereby is solely liable for:

Counterclaim Filing Fee	= \$ 400.00
Member Fees	= \$ 400.00
Forum Fees	= \$ 675.00
Total Fees	= \$1,475.00
Less payments	= \$ 400.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,075.00

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

Arbitrator's Signature



Michael R. Casey, Esq.
Sole Public Arbitrator

Oct. 3, 2000

Signature Date

October 5, 2000

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