

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

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In the Matter of the Arbitration Between:

Boris Vaysburd, (Claimant) vs. TD Waterhouse Investor Services, Inc., (Respondent)

Case Number: 00-03571

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimant, Boris Vaysburd, hereinafter referred to as "Claimant": G. Alexander Novak, Esq., Novak & Juhase, New York, NY.

Respondent, TD Waterhouse Investor Services, Inc., hereinafter referred to as "Respondent": Liam O'Brien, Esq., Theodore A. Krebsbach & Associates, P.C., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: August 15, 2000.

Claimant signed the Uniform Submission Agreement: May 17, 2000.

Statement of Answer filed by Respondent on or about: November 6, 2000.

Respondent signed the Uniform Submission Agreement: November 6, 2000.

**CASE SUMMARY**

Claimant asserted the following causes of action: premature and improper liquidation of securities; violation of the T+3 trade settlement rule; and breach of fiduciary duty. Claimant's claim involved the stock and options of Razorfish, Inc.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant has failed to state a cause of action against Respondent upon which relief may be granted; Claimant suffered no damage as the result of any action taken by Respondent; Respondent's actions were duly authorized by Claimant; Respondent fully discharged all duties owed to Claimant; Respondent carried out its duties to Claimant in conformity with all relevant industry regulations, conventions, and applicable laws; and Respondent acted in good faith at all times.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the approximate amount of \$50,000.00, plus attorneys' fees to be determined by the Panel.

Respondent requested that the Statement of Claim be dismissed in its entirety and that Claimant be made to bear all expenses of Respondent in connection with this matter.

**OTHER ISSUES CONSIDERED AND DECIDED**

During the hearing in this matter, Respondent made a motion for a directed verdict. This motion was denied by the Arbitrator.

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. Claimant's claims are hereby denied in their entirety.
2. Each party shall bear their respective costs, including attorneys' fees.
3. All other requests for relief are hereby 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

= \$ 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. In this matter, TD Waterhouse Investor Services, Inc. is a party.

Member surcharge	= \$ 800.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,000.00

### Adjournment Fees

Adjournments requested during these proceedings:

Sept. 12 & 13, 2001, adjournment by Respondent = waived

### 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, 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 single arbitrator x \$450.00 = \$ 450.00

Pre-hearing conference: April 23, 2001 1 session

Two (2) Hearing sessions x \$450.00 = \$ 900.00

Hearing Dates: October 25, 2001 2 sessions

Total Forum Fees = \$1,350.00

1. The Panel has assessed \$675.00 of the forum fees against Claimant.
2. The Panel has assessed \$675.00 of the forum fees against Respondent.

### Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$ 675.00
Total Fees	= \$ 850.00
Less payments	= \$ 625.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 225.00

2. Respondent be and hereby is solely liable for:

Member Fees	= \$2,400.00
<u>Forum Fees</u>	<u>= \$ 675.00</u>
Total Fees	= \$3,075.00
<u>Less payments</u>	<u>= \$2,400.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 675.00

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

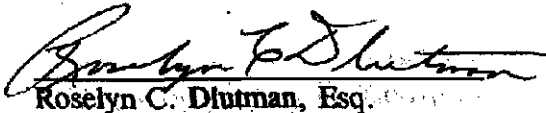
**ARBITRATION PANEL**

Roselyn C. Dlutman, Esq. -

Public Arbitrator

**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.



Roselyn C. Dlutman, Esq.  
Public Arbitrator

11/28/01  
Signature Date

Roselyn C. Dlutman, Esq.  
Public Arbitrator

December 4, 2001

Date of Service (For NASD office use only)

December 4, 2001

Date of Service (For NASD office use only)