
Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

David and Michelle Cardella,
Claimants,

Vs.

TD Waterhouse Investor Services, Inc.
Respondent.

Case Number: 00-04001

Hearing Site: Denver, Colorado

REPRESENTATION OF PARTIES

Claimants, David and Michelle Cardella, hereinafter collectively referred to as the "Claimants": Thomas J. Kimmell, Esq. of the firm Zarlengo & Kimmell, LLC, Denver, Colorado.

Respondent, TD Waterhouse Investor Services ("TD Waterhouse"): Richard L. Haring, Esq. of the firm Grimshaw & Haring, Denver, Colorado.

CASE INFORMATION

Statement of Claim filed on or about: October 4, 2000.

Claimants David and Michelle Cardella signed the Uniform Submission Agreement on August 23, 2000.

Respondent, TD Waterhouse filed a Statement of Answer on or about December 6, 2000. Respondent, TD Waterhouse, through an officer of the company, signed the Uniform Submission Agreement on December 4, 2000.

CASE SUMMARY

Claimants alleged the following causes of action against the Respondents: Breach of Contract, Negligence and Misrepresentation. All causes of action relate to the purchase of common stock. The Claimants assert that Respondent improperly liquidated securities in

their account to meet a margin call. The securities involved include: AHT Corporation, J.D. Edwards & Co., Mentor Graphics, Sun Microsystems, Novell Inc., Vivus, Inc. and Wavo Corporation.

Unless specifically admitted in the Statement of Answer, Respondent TD Waterhouse denied the allegations set forth in the Statement of Claim and asserted the following defenses: Claimants have failed to state a cause of action against Respondent TD Waterhouse upon which relief may properly be granted; Claimants suffered no damage as the result of any action taken by Respondent; Respondent, TD Waterhouse actions were duly authorized by Claimants; Respondent, TD Waterhouse carried out its duties to Claimants in conformity with all relevant industry regulations, conventions and applicable law; Respondent, TD Waterhouse acted in good faith at all times.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$80,000.00
Punitive Damages	unspecified
Attorney's Fees	unspecified
Interest	unspecified
Costs	unspecified

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

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and post hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. That all relief requested against Respondent TD Waterhouse Investor Services is hereby denied.
2. That except as otherwise specified herein, each party shall bear its own cost and attorney's fees.
3. That 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, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial Claim Filing Fee = \$225

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 is Respondent, TD Waterhouse Investor Services, Inc:

Member surcharge	= \$ 1,000
Pre-hearing Process Fee	= \$ 600
Hearing Process Fee	= \$ 1,500
Total Member Fees	= \$ 3,100

Forum Fees and Assessments

The Arbitration Panel has the authority to assess forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, 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 Panel x \$750	= \$750
Pre-hearing conference(s): March 15, 2001	1 session
Two (2) Hearing sessions x \$750	= \$1,500
Hearing Date(s) June 26, 2001	2 sessions
Total Forum Fees	= \$2,250

The Panel has assessed the forum fees equally between the Claimant and the Respondent.

1. Claimants David and Michelle Cardella shall bear one-half the cost (\$1,125) of the forum fees incurred in this arbitration.
2. Respondent TD Waterhouse Investor Services shall bear one-half the cost (\$1,125) of the forum fees incurred in this arbitration.

Fee Summary

1. Claimants, David and Michelle Cardella, be and hereby are jointly and severally liable for:

Forum Fees	= \$1,125
<u>Claim Filing Fee</u>	<u>= \$ 225</u>

Total Fees	= \$ 1,350
<u>Less payments</u>	<u>= \$ 975</u>
Balance Due NASD Dispute Resolution, Inc.	= \$375

2. Respondent, TD Waterhouse Investor Services, be and hereby is solely liable for:

Forum Fees	= \$1,125
<u>Member Fees</u>	<u>= \$3,100</u>
Total Fees	= \$4,225
<u>Less payments</u>	<u>= \$1,000</u>
Balance Due NASD Dispute Resolution, Inc.	= \$3,225

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Carl G. Mohr	-	Public, Presiding Chair
Joseph P. Natale	-	Public Arbitrator
Alexander N. Feick	-	Non-Public Arbitrator

Carl G. Mohr
Public Arbitrator, Presiding Chair

Signature Date

Joseph P. Natale
Public Arbitrator, Panelist

Signature Date

Alexander N. Feick
Non-Public Arbitrator, Panelist

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

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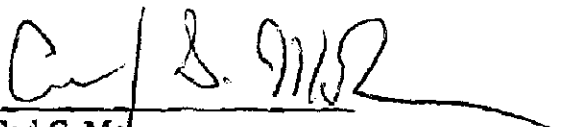
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Joseph P. Natalie	-	Public Arbitrator
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Public Arbitrator, Presiding Chair



Signature Date

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Public Arbitrator, Panelist

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Joseph P. Natalie	NATALIE -	Public Arbitrator
Alexander N. Feick	-	Non-Public Arbitrator

Carl G. Mohr
Public Arbitrator, Presiding Chair

Signature Date

Joseph P. Natalie
Joseph P. Natalie NATALIE
Public Arbitrator, Panelist

8/22/01
Signature Date

Alexander N. Feick
Non-Public Arbitrator, Panelist

Signature Date

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NASD-DR Award
Arbitration # 0004001
Page 4 of 4

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Carl G. Mohr
Public Arbitrator, Presiding Chair

Signature Date

Joseph P. Natalie
Public Arbitrator, Panelist

Signature Date

Alexander N. Feick
Non-Public Arbitrator, Panelist

Signature Date

8/21/01

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