

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Mala Nahata

and

00-05340
Southfield, Michigan

TD Waterhouse Investment Services, Inc.

REPRESENTATION OF PARTIES

Mala Nahata ("Claimant") was represented by Roger R. Rathi, Esq., Law Offices of Roger Rathi, P.C., Bingham Farms, Michigan, and Walter L. Goldsmith, Esq., DKW Law Group, Southfield, Michigan.

TD Waterhouse Investment Services, Inc. ("Respondent") was represented by Miles D. Hart, Esq., Hertz, Schram & Saretsky, P.C., Bloomfield Hills, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about November 20, 2000. Submission Agreement of Claimant Mala Nahata was signed on September 16, 2000.

Statement of Answer was filed by Respondent TD Waterhouse Investment Services, Inc. on or about January 24, 2001. Submission Agreement of Respondent TD Waterhouse Investment Services, Inc. was signed on January 24, 2001, by Janis Campanella.

Respondent's Motion to Dismiss was filed on or about October 12, 2001. Claimant's Response to Motion to Dismiss was filed on or about October 15, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract. Claimant alleged that Respondent improperly liquidated various securities in Claimant's online margin account.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant has failed to state a cause of action against Respondent upon which relief may properly be granted and Claimant suffered no damage as a result of any action taken by Respondent.

RELIEF REQUESTED

Claimant requested an award in excess of \$109,648.35, plus interest, costs, and attorney fees, alternatively Claimant requested an award in excess of \$30,175.00 plus interest, costs, and attorney fees. At hearing, Claimant requested unspecified punitive damages.

Respondents requested that the Statement of Claim be dismissed in its entirety and all expenses in connection with this matter.

OTHER ISSUES CONSIDERED & DECIDED

At hearing, the Panel denied Respondent's Motion to Dismiss, Respondents' Motion to Exclude, and Motion for Reconsideration of Arbitrators' Ruling Regarding Exclusion of Evidence.

At hearing, the Panel designated, the transcript taken by the court reporter as the official record of proceedings. The Panel directed that the record be transcribed and that Respondent was responsible for payment of the transcription and providing a copy of the transcript to NASD Dispute Resolution.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution, Inc. (the "NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's claims, each and all, are denied in their entirety;
- 2.) Respondent is liable for and shall pay for all court reporter costs and shall pay for and provide a copy of the transcript to NASD Dispute Resolution, Inc. within thirty (30) business days of the NASD Service date of this Award;
- 3.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 4.) That any relief not specifically enumerated, including punitive damages, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain the non-refundable filing fees for each claim:

Initial claim filing fee = \$300.00

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 TD Waterhouse Investment Services, Inc.

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

Forum Fees and Assessments

The Arbitration 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:

One (1) Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: May 29, 2001 1 session	
Four (4) Hearing sessions x \$1,125.00	= \$4,500.00
Hearing Dates: October 16, 2001 3 sessions	
October 17, 2001 1 session	
<u>Total Forum Fees</u>	<u>= \$5,625.00</u>

The Arbitration Panel has assessed \$2,812.50 of the forum fees to Mala Nahata.

The Arbitration Panel has assessed \$2,812.50 of the forum fees to TD Waterhouse Investment Services, Inc.

Fee Summary

Claimant, Mala Nahata, is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 3,112.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,687.50

Respondent, TD Waterhouse Investment Services, Inc., is liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 7,412.50
Less payments	= \$ 2,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 5,312.50

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

David L. Rosenthal - Public, Presiding Chair
Robert F. Fearon - Public Arbitrator
Diane Catherine Tietmeyer - Non-Public Arbitrator

Concurring Arbitrators:

/s/ David L. Rosenthal
David L. Rosenthal
Public Arbitrator, Presiding Chair

10/17/01
Signature Date

/s/ Robert F. Fearon
Robert F. Fearon
Public Arbitrator

10/18/01
Signature Date

/s/ Diane Catherine Tietmeyer
Diane Catherine Tietmeyer
Non-Public Arbitrator

10/18/01
Signature Date

10/22/01
Date of Service (For NASD office use only)

Claimant, Maia Nahata, is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 3,112.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,687.50

Respondent, TD Waterhouse Investment Services, Inc., is liable for:

Member Fees	= \$ 4,800.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 7,612.50
Less payments	= \$ 2,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 5,512.50

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

David L. Rosenthal - Public, Presiding Chair

Robert F. Fearon - Public Arbitrator

Diane Catherine Tietmeyer - Non-Public Arbitrator

Concurring Arbitrators:

David L. Rosenthal

Public Arbitrator, Presiding Chair

OCT. 17, 2001
Signature Date

Robert F. Fearon
Public Arbitrator

Signature Date

Diane Catherine Tietmeyer
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.
Arbitration No. 00-15340
Award Page 4 of 4

Fee Summary

Claimant, Mala Nahata, is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 3,112.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,687.50

Respondent, TD Waterhouse Investment Services, Inc., is liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 7,412.50
Less payments	= \$ 2,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 5,312.50

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

David L. Rosenthal - Public, Presiding Chair
Robert F. Fearon - Public Arbitrator
Diane Catherine Tietmeyer - Non-Public Arbitrator

Concurring Arbitrators:

David L. Rosenthal
Public Arbitrator, Presiding Chair

Signature Date

Robert F. Fearon
Public Arbitrator

Signature Date

Diane C. Tietmeyer

Diane Catherine Tietmeyer
Non-Public Arbitrator

10/18/01

Signature Date

Date of Service (For NASD office use only)

RECEIVED
OCT 22 2001

Fee Summary

Claimant, Mala Nahata, is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 3,112.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,687.50

Respondent, TD Waterhouse Investment Services, Inc., is liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 7,412.50
Less payments	= \$ 2,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 5,312.50

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

David L. Rosenthal - Public, Presiding Chair
Robert F. Fearon - Public Arbitrator
Diane Catherine Tietmeyer - Non-Public Arbitrator

Concurring Arbitrators:

David L. Rosenthal
Public Arbitrator, Presiding Chair

Signature Date



Robert F. Fearon
Public Arbitrator

October 18, 2001

Signature Date

Diane Catherine Tietmeyer
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)