

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

---

In the Matter of the Arbitration Between:

Leah Oliver, Claimant v. T.D. Waterhouse Investor Services, Inc., Respondent

Case Number: 01-00953

Hearing Site: San Francisco, CA

---

**REPRESENTATION OF PARTIES**

For Claimant:

*In Pro Per*

16150 Ashland Avenue  
#50  
San Lorenzo, CA 94580

For Respondent:

Julie A. Kole, Esq.  
Keesal, Young & Logan  
Four Embarcadero Center  
Suite 1500  
San Francisco, CA 94580

**CASE INFORMATION**

Statement of Claim filed: February 27, 2001

Claimant's Uniform Submission Agreement signed: March 2, 2001

Statement of Answer filed by Respondent: April 6, 2001

Respondent's Uniform Submission Agreement signed: April 3, 2001

**CASE SUMMARY**

Claimant alleged that Respondent failed to cancel her online limit order, for processing during the Respondent's Extended Hours Trading Session, to sell 600 shares of Amazon.com ("AMZN"), at a price good for that day's session only. Claimant further contended that after Respondent reinstated her position, Claimant was unable to sell the shares at the 52-week high price and to regain any money she allegedly lost, as the price of the stock fell and she began receiving margin calls that resulted in the liquidation of her position.

Respondent acknowledged its error in processing Claimant's order. However, Respondent alleged that after discovering the error, it promptly restored the Claimant's position. Thereafter, Claimant allegedly chose to hold the shares as they declined in value. Ultimately, the loss

resulted in a margin call and the subsequent liquidation of the shares, all of which Respondent ascribed to Claimant's actions.

### **RELIEF REQUESTED**

Claimant requested \$10,650 (actual damages) and \$9,350 (punitive damages.)

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety. In addition, Respondent asserted the following affirmative defenses: failure to state a claim; failure to mitigate; Claimant suffered no damages as a result of actions taken by Respondent; Respondent fully discharged its duties in conformity with the relevant industry regulations and applicable laws, and Respondent acted in good faith.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The parties 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, testimony, and evidence presented at the hearing, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent shall pay Claimant \$6,600.
- 2) Each party shall bear its own costs, including attorney's fees.
- 3) All other relief not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm is a party and the following fees are assessed:

<u>Member Surcharge</u>	= \$ 400
Total Member Fees	= \$ 400

#### **Forum Fees and Assessments**

The Arbitrator assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

NASD Dispute Resolution, Inc.  
Arbitration No. 01-00953  
Award Page 3 of 4

One (1) Pre-hearing conference session with a single arbitrator @ \$ 450/session	= \$450
Pre-hearing conference: September 20, 2001 1 session	
Four (1) Hearing session @ \$450/session	= \$450
Hearings: October 31, 2001 2 sessions	
<b>Total Forum Fees</b>	<b>= \$900</b>

1. The Arbitrator assessed \$450 of the forum fees to Claimant.
2. The Arbitrator assessed \$450 of the forum fees to Respondent.

**Fee Summary**

1. Claimant is charged with the following fees and costs:	
Forum Fees	= \$450
Total Fees	= \$450
<u>Less Payments</u>	= \$(0)
Balance Due NASD Dispute Resolution, Inc.	= \$450
2. Respondent is charged with the following fees and costs:	
Member Fees	= \$400
<u>Forum Fees</u>	= \$450
Total Fees	= \$850
<u>Less Payments</u>	= \$(400)
Balance Due NASD Dispute Resolution, Inc.	= \$450

All balances are payable to NASD Dispute Resolution, Inc. and are payable upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

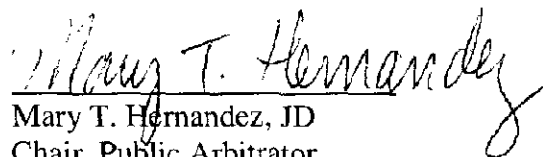
NASD Dispute Resolution, Inc.  
Arbitration No. 01-00953  
Award Page 4 of 4

**ARBITRATION PANEL**

Mary T. Hernandez, JD

- Public Arbitrator, Presiding Chair

**Arbitrator's Signature**

  
Mary T. Hernandez, JD  
Chair, Public Arbitrator

11/12/01  
Signature Date

Date Served:

**NOV 12 2001**

                      
Date of Service