

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Rajiv K. Aggarwal and Madhu Aggarwal, (Claimants) vs. TD Waterhouse Investor Services, Inc., (Respondent)

Case Number: 01-01255

Hearing Site: Buffalo, New York

REPRESENTATION OF PARTIES

Claimants, Rajiv K. Aggarwal ("R. Aggarwal") and Madhu Aggarwal ("M. Aggarwal"), hereinafter collectively referred to as "Claimants": Erwin Cohn, Esq., Cohn & Cohn, Chicago, IL.

Respondent, TD Waterhouse Investor Services, Inc., hereinafter referred to as "Respondent": Miles D. Hart, Esq., Hertz, Schram & Saretsky, P.C., Bloomfield Hills, MI. Previously represented by: Janis Campanella, Esq., Assistant Counsel, TD Waterhouse Investor Services, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: March 13, 2001.

R. Aggarwal signed the Uniform Submission Agreement: May 4, 2001.

M. Aggarwal signed the Uniform Submission Agreement: May 4, 2001.

Statement of Answer filed by Respondent on or about: July 20, 2001.

Respondent signed the Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; negligence; breach of fiduciary duty; common law fraud; breach of agency doctrine; failure to supervise and train; unauthorized trading; violation of the Consumer Fraud and Deceptive Business Practices Act; and unconscionable acts of misconduct. Claimants' claim involved the stock of Ariel Corp.

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

RELIEF REQUESTED

Claimants requested:

- a. Compensatory damages in the approximate amount of \$50,000.00;
- b. Interest from November 26, 1999;
- c. Recovery for monies Claimant would have received if the trades in the account were not improperly handled;
- d. Punitive damages; and
- e. Such other damages as the Panel deems appropriate, including costs, disbursements, and attorneys' fees.

Respondent 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.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are hereby dismissed in their entirety.
2. 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
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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

Forum Fees and Assessments

The Panel assesses 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 arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$600.00	= \$ 600.00
Pre-hearing conference: October 23, 2001 1 session	

Two (2) Hearing sessions x \$600.00	= \$1,200.00
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<u>Hearing Date:</u> February 25, 2002 2 sessions	
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Total Forum Fees	= \$1,800.00
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1. The Panel has assessed \$900.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$900.00 of the forum fees against Respondent.

Fee Summary

1. Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= \$ 900.00
Total Fees	= \$1,075.00
<u>Less payments</u>	= \$ 775.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 300.00

2. Respondent be and hereby is solely liable for:

Member Fees	= \$2,400.00
<u>Forum Fees</u>	= \$ 900.00
Total Fees	= \$3,300.00
<u>Less payments</u>	= \$2,400.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 900.00

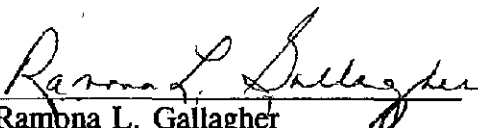
All balances are due and payable to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

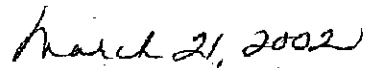
Ramona L. Gallagher	-	Public Arbitrator, Presiding Chair
Werner Schenk	-	Public Arbitrator
Jeffrey Mark Schwartz	-	Industry Arbitrator

Concurring Arbitrators' Signatures

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.



Ramona L. Gallagher
Public Arbitrator, Presiding Chair



Signature Date

Werner Schenk
Public Arbitrator

Signature Date

Jeffrey Mark Schwartz
Industry Arbitrator

Signature Date

April 2, 2002
Date of Service (For NASD office use only)


ARBITRATION PANEL

Ramona L. Gallagher	-	Public Arbitrator, Presiding Chair
Werner Schenk	-	Public Arbitrator
Jeffrey Mark Schwartz	-	Industry Arbitrator

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Ramona L. Gallagher
Public Arbitrator, Presiding Chair



Werner Schenk
Public Arbitrator

Signature Date

21 MARCH, 2002
Signature Date

Jeffrey Mark Schwartz
Industry Arbitrator

Signature Date

April 2, 2002
Date of Service (For NASD office use only)

ARBITRATION PANEL

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Ramona L. Gallagher
Public Arbitrator, Presiding Chair

Signature Date

Werner Schenk
Public Arbitrator

Signature Date


Jeffrey Mark Schwartz
Industry Arbitrator

3-20-02
Signature Date

April 2, 2002
Date of Service (For NASD office use only)