

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Anne Rothberg Revocable Trust, (Claimant) vs. TD Waterhouse Investor Services, Inc.,
(Respondent)

Case Number: 01-02367

Hearing Site: Boston, Massachusetts

REPRESENTATION OF PARTIES

Claimant, Anne Rothberg Revocable Trust, hereinafter referred to as "Claimant": Timothy E. Leonard, Trustee, Groton, MA.

Respondent, TD Waterhouse Investor Services, Inc., hereinafter referred to as "Respondent": Derek C. Anderson, Esq., Murphy & Michaels, LLP., Boston, MA. Previously represented by: Janis Campanella, Esq., Assistant Counsel, TD Waterhouse Investor Services, Inc., Boca Raton, FL.

CASE INFORMATION

Statement of Claim filed on or about: May 4, 2001.

Claimant signed the Uniform Submission Agreement: January 30, 2002.

Statement of Answer filed by Respondent on or about: July 26, 2001.

Respondent did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: failure to provide accurate information and improper valuing of securities which was a cause or proximate cause of loss. Claimant's claim involved Classnotes Trust Asset Backed Notes.

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 properly be granted; Claimant suffered no damage as the result of any action taken by Respondent; Respondent acted all times in accordance with Claimant's direction and 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 sum of \$23,750.00; punitive damages in the sum of \$23,750.00; plus 12% interest per annum; and reimbursement of all costs related to arbitration.

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 the matter.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Arbitrator on all issues submitted.

Respondent filed a Post Arbitration Brief on February 27, 2003. Claimant filed a Reply to Respondent's Brief via e-mail on March 3, 2003. NASD Dispute Resolution informed Arbitrator Jordan of the parties' post-hearing submissions, however, Arbitrator Jordan advised that he did not wish to review them.

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. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution 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 persons at the time of the event 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 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:

Two (2) Pre-hearing sessions with a single arbitrator x \$450.00 = \$ 900.00

Pre-hearing conferences: October 22, 2002 1 session

October 28, 2002 1 session

One (1) Hearing sessions x \$450.00 = \$ 450.00

Hearing Date: February 25, 2003 1 session

Total Forum Fees = \$ 1,350.00

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

Fee Summary

1. Claimant 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 = \$ 225.00

2. Respondent 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	= \$ 675.00

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

ARBITRATION PANEL

Richard D. Jordan

Public Arbitrator

Arbitrator's Signature


Richard D. Jordan

Public Arbitrator

03-05-03

Signature Date

March 6, 2003

Date of Service (For NASD Dispute Resolution use only)