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Award  
NASD Dispute Resolution, Inc.

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In the Matter of the Arbitration Between: Claimant Sundaram Swetharanyam, Trustee of the Swetharanyam Living Trust of 1993 and Respondent TD Waterhouse Investor Services

Case Number: 01-02399

Hearing Site: Houston, Texas

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REPRESENTATION OF PARTIES

Claimant, Swetharam Swetharanyam, Trustee of the Swetharanyam Living Trust of 1993 hereinafter referred to as "Claimant": Thomas Allen Filo, Esq., of Cox, Cox, Filo & Camel of Lake Charles, Louisiana.

Respondent, TD Waterhouse Investors Services, Inc., hereinafter referred to as "Respondent": William N. Radford Esq. of Thomas Coe located in Houston, Texas.  
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CASE INFORMATION

Statement of Claim filed on or about: May 31, 2001.  
Claimant filed the Uniform Submission Agreement on May 3, 2001.

Statement of Answer filed by Respondent on or about: July 7, 2001  
Respondent signed the Uniform Submission Agreement: July 20, 2001

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; breach of written contract and negligence. Claimant alleges that Respondent failed to follow Claimant's instructions regarding the transfer of funds. Ultimately, the transfer was effected into a cash account, and then to a margin account. The alleged delay resulted in margin call from which Claimant is alleged to have suffered damages. All causes of action relate to the alleged mishandling of a mutual fund.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses:

1. Claimant has failed to state a cause of action against Respondent upon which relief may properly be granted;
2. Claimant suffered no damage as the result of any action taken by the Respondent;
3. Claimant failed to take action to mitigate damages;
4. Respondent acted at all times in accordance with Claimant's direction and fully discharged all duties it owed to Claimant;
5. Respondent carried out its duties to Claimant in conformity with all relevant industry regulations, conventions and applicable laws;
6. Respondent acted in good faith at all times.

#### RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 28,511.25
Punitive Damages	\$ 85,533.75
Interest	\$ Unspecified
Attorneys' Fees	\$ Unspecified
Other Costs	\$ Unspecified

Respondent requested that the claims against them be dismissed in their entirety:

#### 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. TD Waterhouse Investors Services, Inc. is liable and shall pay to Sundaram Swetharayam as trustee of Swetharayam Living Trust of 1993 compensatory damages in the amount of \$28,511.25.
2. TD Waterhouse Investors Services, Inc. is liable and shall pay to Sundaram Swetharayam as trustee of Swetharayam Living Trust of 1993 interest on the compensatory damages in the amount of 6%. The interest shall begin to accrue pursuant to two separate dates of loss as follows: Six percent (6%) for the debt in the sum of \$22,345.64 which accrues on May 25, 2000; Six percent interest for the debt of \$6,165.61 which accrues on December 21, 2000. Interest on the compensatory damages shall cease to accrue upon payment of the award;
3. Unless specifically enumerated herein, any and all costs shall be borne by the individual parties;
4. Any and all relief not specifically addressed herein, 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	= \$ 300.00
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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(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 Respondent TD Waterhouse Investors Services, Inc.

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

#### Adjournment Fees

Adjournments requested during these proceedings:

March 27, -28, 2002, adjournment requested by all parties	= \$ 1,125.00
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Fees as assessed by the Arbitrators.

#### Forum Fees and Assessments

The 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 arbitrators, 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: December 5, 2001 1 session	

Five (5) Hearing sessions x \$ 1,125.00	= \$ 5,625.00
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Hearing Dates:	May 9, 2002	3 sessions
	May 10, 2002	2 sessions

Total Forum Fees	= \$ 6,750.00
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The Panel has assessed \$6,750.00 of the forum fees to Respondent TD Waterhouse Investor Services, Inc.

### Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 562.50

Total Fees	= \$ 862.50
Less payments	= \$ 1,425.00
Balance refunded by NASD Dispute Resolution, Inc.	= \$ 563.50

2. Respondent, TD Waterhouse Investor Services Inc., is solely liable for:

Member Fees	= \$ 4,600.00
Adjournment Fee	= \$ 562.50
Forum Fees	= \$ 6,750.00
Total Fees	= \$11,912.50
Less payments	= \$ 4 600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 7,312.50

All balances are due to NASD Dispute Resolution, Inc.

#### ARBITRATION PANEL

Ray L. Cox, Jr., Esq.,	-	Public Arbitrator, Presiding Chair
Don K. Leufven	-	Public Arbitrator
John M. Greer	-	Non-Public Arbitrator

#### Concurring Arbitrators' Signatures

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Ray L. Cox, Jr., Esq.,  
Public Arbitrator, Presiding Chair

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Signature Date

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Don K. Leufven  
Public Arbitrator

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Signature Date

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Non-Public Arbitrator

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NASD-Dispute Resolution # 01-02399

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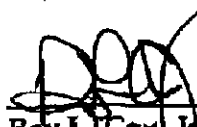
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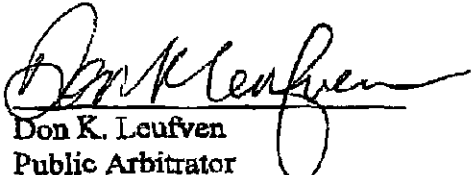
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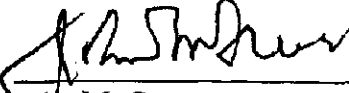
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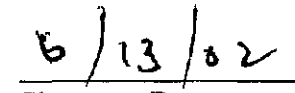
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