

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

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In the Matter of the Arbitration Between:

Warren Hambly, (Claimant) vs. TD Waterhouse Investor Services, Inc., (Respondent)

Case Number: 01-02502

Hearing Site: Boston, Massachusetts

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**REPRESENTATION OF PARTIES**

Claimant, Warren Hambly, hereinafter referred to as "Claimant", appeared *pro se*.

Respondent, TD Waterhouse Investor Services, Inc., hereinafter referred to as "Respondent": David L. Ward, Esq., Murphy & Michaels, LLP, Boston, MA. 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: May 6, 2001.

Claimant signed the Uniform Submission Agreement: May 8, 2001.

Statement of Answer filed by Respondent on or about: July 23, 2001.

Respondent signed the Uniform Submission Agreement: July 23, 2001.

**CASE SUMMARY**

Claimant asserted the following causes of action: inability to execute on-line transactions; false error messages sent out to Claimant by Respondent's on-line trading system; and deceit. Claimant's claim involved unspecified stocks.

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; Claimant took no action to mitigate damages; Respondent acted at 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 amount of \$25,000.00.

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 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 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, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 125.00
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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	= \$ 400.00
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**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 31, 2001                      1 session  
   December 28, 2001                      1 session

Two (2) Hearing sessions x \$450.00 = \$ 900.00

Hearing Date:                      January 29, 2002                      2 sessions

Total Forum Fees = \$1,800.00

1. The Arbitrator has assessed \$900.00 of the forum fees against Claimant.
2. The Arbitrator has assessed \$900.00 of the forum fees against Respondent.

**Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 125.00
<u>Forum Fees</u>	<u>= \$ 900.00</u>
Total Fees	= \$1,025.00
<u>Less payments</u>	<u>= \$ 575.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 450.00

2. Respondent be and hereby is solely liable for:

Member Fees	= \$ 400.00
<u>Forum Fees</u>	<u>= \$ 900.00</u>
Total Fees	= \$1,300.00
<u>Less payments</u>	<u>= \$ 400.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 900.00

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

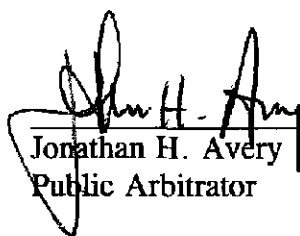
**ARBITRATION PANEL**

Jonathan H. Avery

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Public Arbitrator

**Arbitrator's Signature**



Jonathan H. Avery  
Public Arbitrator

2/16/02  
Signature Date

February 22, 2002

Date of Service (For NASD office use only)