

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Jamil Hodaly, Claimant v. TD Waterhouse Investor Services, Inc., Respondent

Case Number: 02-07456

Hearing Site: Los Angeles, California

Nature of the Dispute: Customer v. Member

REPRESENTATION OF PARTIES

For Claimant:

Robert M. Moss, Esq.
Law Offices of Robert M. Moss, Inc.
Santa Monica, California

For Respondent:

John L. Erikson, Jr., Esq.
Robert J. Girard, Esq.
Jones Bell Abbott Fleming & Fitzgerald
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: December 6, 2002

Amended Statement of Claim filed: April 12, 2003

Claimant's Uniform Submission Agreement signed: December 4, 2002

Statement of Answer filed by Respondent: March 14, 2003

Respondent's Uniform Submission Agreement signed: March 14, 2003

CASE SUMMARY

In the Statements of Claim, Claimant alleged fraud, negligence, breach of contract, breach of fiduciary duty, violation of NASD conduct rules, violation of New York Stock Exchange rules, violation of American Stock Exchange rules, violation of federal and state laws, misrepresentations, and omissions. Claimant's claims involved Respondent's failure to freeze or close Claimant's account resulting in a margin sell-off of unspecified securities.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statements of Claim.

RELIEF REQUESTED

In the Statements of Claim, Claimant requested \$500,000.00 in compensatory damages, \$500,000.00 in punitive damages, unspecified interest, and costs, including attorney's fees.

Respondent requested dismissal of the Claimant's Statements of Claim in their entirety and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On April 12, 2003, Claimant filed an Amended Statement of Claim pursuant to the NASD Code of Arbitration Procedure Rule 10328(a).

On February 25, 2003, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On May 22, 2003, Respondent's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

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

- 1) Claimant's claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$ 375.00

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 TD Waterhouse Investor Services, Inc. is a party and the following fees are assessed:

Member Surcharge = \$ 2,250.00

Pre-Hearing Process Fee = \$ 750.00

Hearing Process Fee = \$ 4,000.00

Total Member Fees = \$ 7,000.00

Adjournment Fees

The following adjournment fees are assessed:

February 2-5, 2004 hearing date adjournment requested by Claimant = \$ 1,200.00

The Panel waived \$1,200.00 of the adjournment fees.

Forum Fees and Assessments

The Panel 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 Panel. The following fees are assessed:

2 Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$ 2,400.00

Pre-hearing conferences: June 18, 2003 1 session
May 3, 2004 1 session

6 Hearing sessions @ \$1,200.00/session = \$ 7,200.00

Hearings: January 4, 2005 2 sessions
January 5, 2005 2 sessions
January 6, 2005 2 sessions

Total Forum Fees = \$ 9,600.00

1. The Panel assessed \$ 4,800.00 of the forum fees to Claimant.
2. The Panel assessed \$ 4,800.00 of the forum fees to Respondent.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimant requested 240 photocopies @ \$0.50 each:	= \$ 120.00
Respondent requested 96 photocopies @ \$0.50 each:	= \$ 48.00

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 4,800.00
<u>Administrative Costs</u>	= \$ 120.00
Total Fees	= \$ 5,295.00
<u>Less payments</u>	<u>= \$(1,700.00)</u>
Balance Due NASD Dispute Resolution	= \$ 3,595.00
2. Respondent is charged with the following fees and costs:

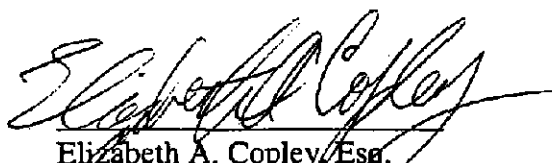
Member Fees	= \$ 7,000.00
Forum Fees	= \$ 4,800.00
<u>Administrative Costs</u>	= \$ 48.00
Total Fees	= \$11,848.00
<u>Less payments</u>	<u>= \$(7,000.00)</u>
Balance Due NASD Dispute Resolution	= \$ 4,848.00

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

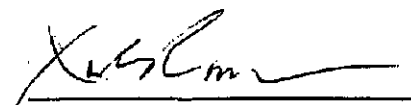
ARBITRATION PANEL

Elizabeth A. Copley, Esq.	-	Public Arbitrator, Presiding Chair
James S. Carlson	-	Public Arbitrator
John B. La Rue	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures


Elizabeth A. Copley, Esq.
Chair, Public Arbitrator

1/6/05
Signature Date


James S. Carlson
Public Arbitrator

1/6/05
Signature Date


John B. La Rue
Non-Public Arbitrator

1-6-05
Signature Date

1/7/05
Date of Service