

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Luther G. Gilford

and

Case Number: 03-01095  
Hearing Site: Southfield, Michigan

Names of Respondents

Comerica Securities and  
Michael Hass

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**NATURE OF DISPUTE**

Customer v. Member and Associated Person

**REPRESENTATION OF PARTIES**

Luther G. Gilford ("Claimant") appeared in pro per. Vera E. Gilford, Esq. appeared on behalf of Claimant for the hearing sessions on January 28, 2004, only.

Comerica Securities ("Comerica") and Michael Hass ("Hass"), hereinafter referred to as "Respondents" were represented by Donald W. Meyers, Esq., Miller Canfield, Paddock & Stone, PLC, Detroit, Michigan.

**CASE INFORMATION**

The Statement of Claim was filed on or about February 13, 2003. The Submission Agreement of Claimant Luther G. Gilford was signed on or about February 10, 2003.

Statement of Answer was filed jointly by Respondent Comerica Securities and Michael Hass on or about April 1, 2003. The Submission Agreement of Respondent Comerica Securities was signed on or about April 15, 2003. The Submission Agreement of Respondent Michael Hass was signed on or about March 17, 2003.

Claimant filed a Response to Respondents' Affirmative Defenses on or about April 22, 2003.

Respondents filed a Motion to Dismiss or Alternatively, Motion for Hearing on or about June 12, 2003. Claimant filed a Response to the Motion on or about June 26, 2003. Respondents filed a Reply to Claimant's Response on or about July 14, 2003.

Claimant filed a Motion for Summary Judgment on or about July 17, 2003.

Claimant filed a Motion to Amend Original Statement of Claim on or about December 19, 2003. Respondents filed a Response to the Motion on or about December 30, 2003.

### **CASE SUMMARY**

Claimant asserted causes of action including the following: violation of NASD and NYSE rules. The causes of action relate to Claimant's allegations that Respondents did not confirm the transactions when he purchased BRCOM, NT, SUNW and WCOM, and that he was unable to access his account via computer.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim fails to state a claim upon which relief can be granted, Claimant has, by his conduct, waived any claims, and claimant failed to mitigate damages.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$19,000.00, plus costs, expenses and \$1,000 in interest.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

This matter was filed under Rule 10302 on the NASD Code of Arbitration Procedure. The Arbitrator ordered a hearing in this matter pursuant to Rule 10302(f) and denied Respondents' Motion to Dismiss on or about October 22, 2003.

The Arbitrator denied Claimant's Motion to Amend Original Statement of Claim in his Order entered on or about January 21, 2003.

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's claims, each and all are denied and dismissed with prejudice;
- 2.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) That any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

### **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 = \$ 125.00

#### **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 person at the time of the events giving rise to the dispute. In this matter, the member firm is Comerica Securities.

Member surcharge = \$ 425.00

#### **Forum Fees and Assessments**

The Arbitration Panel 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: December 10, 2003 1 session  
January 26, 2004 1 session

Three (3) Hearing sessions x \$450.00 = \$ 1,350.00  
Hearing Date: January 28, 2004 2 sessions  
January 29, 2004 1 session

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Total Forum Fees = \$ 2,250.00

The Arbitrator has assessed \$300.00 of the forum fees to Luther G. Gilford.  
The Arbitrator has assessed \$1,950.00 of the forum fees to Comerica Securities.

### **Fee Summary**

Claimant, Luther G. Gilford, is liable for:

Initial Filing Fee	= \$ 125.00
Forum Fees	= \$ 300.00
Total Fees	= \$ 425.00
Less payments	= \$ 425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent, Comerica Securities, is liable for:

Member Fees	= \$ 425.00
Forum Fees	= \$ 1,950.00
Total Fees	= \$ 2,375.00
Less payments	= \$ 425.00
Balance Due NASD Dispute Resolution	= \$ 1,950.00

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

**ARBITRATOR**

George H. Zinn, Jr., Esq. - Public, Presiding Chair

Arbitrator's signature:

/s/ George H. Zinn, Jr., Esq. \_\_\_\_\_  
George H. Zinn, Jr., Esq.  
Public Arbitrator, Presiding Chair

01/30/04  
Signature Date

01/30/04  
Date of Service (For NASD office use only)

Respondent, Comerica Securities, is liable for:

Member Fees	= \$ 425.00
Forum Fees	= \$ 1,950.00
Total Fees	= \$ 2,375.00
Loss payments	= \$ 425.00
Balance Due NASD Dispute Resolution	= \$ 1,950.00

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

**ARBITRATOR**

George H. Zinn, Jr., Esq. - Public, Presiding Chair

Arbitrator's signature:

  
George H. Zinn, Jr., Esq.  
Public Arbitrator, Presiding Chair

30 January 2004  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)