

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Otto Frank Loser (Claimant) v. TD Waterhouse Investor Services (Respondent)

Case Number: 03-03511

Hearing Site: New York, New York

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Claimant Otto Frank Loser ("Loser") hereinafter referred to as "Claimant" appeared *pro se*.

Respondent TD Waterhouse Investor Services, Inc. ("Waterhouse") hereinafter referred to as "Respondent": Miles D. Hart, Esq., Law Offices of Hertz, Schram & Saretsky, P.C., Bloomfield Hills, MI. Previously represented by: Janis Campanella, Esq., TD Waterhouse Investor Services, Inc., Boca Raton, FL.

CASE INFORMATION

Statement of Claim filed on or about: May 13, 2003.

Claimant signed the Uniform Submission Agreement: June 14, 2003.

Statement of Answer filed by Respondent on or about: November 6, 2003.

Respondent signed the Uniform Submission Agreement: November 6, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: negligence and failure to execute a stop loss order. Claimant's claim involved shares of Sun Microsystems common stock.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$64,800.00; punitive damages in the amount of \$1,000.00; and interest in the amount of \$2,592.00.

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, and 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. Respondent is liable for and shall pay to Claimant compensatory damages in the amount of \$3,200.00, plus interest at the rate of 9% per annum from October 31, 2000 through April 20, 2004, or \$1,000.00.
2. Respondent is liable for and shall pay to Claimant the sum of \$225.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
3. Any and all relief not specifically addressed herein, including punitive damages, is 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	= \$225.00
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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. Accordingly, TD Waterhouse Investor Services, Inc. is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 @ \$750.00	= \$ 750.00
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NASD Dispute Resolution
Arbitration No. 03-03511
Award Page 3 of 4

Pre-hearing conference: January 5, 2004 1 session

Two (2) Hearing sessions @ \$750.00 = \$1,500.00

Hearing Date: April 20, 2004 2 sessions

Total Forum Fees = \$2,250.00

1. The Panel has assessed \$2,250.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 225.00
<u>Total Fees</u>	= \$ 225.00
<u>Less payments</u>	= \$ 975.00
Refund Due to Claimant	= \$ 750.00

As stated in the "Award" section above, Respondent is liable and shall reimburse Claimant for the \$225.00 filing fee.

2. Respondent is solely liable for:

Member Fees	= \$3,550.00
<u>Forum Fees</u>	= \$2,250.00
<u>Total Fees</u>	= \$5,800.00
<u>Less payments</u>	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$2,250.00

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


NASD Dispute Resolution
Arbitration No. 03-03511
Award Page 4 of 4

ARBITRATION PANEL

Bruce Sanders, Esq.	-	Public Arbitrator, Presiding Chair
Krishnan S. Chittur, Esq.	-	Public Arbitrator
Joseph J. Cassidy		Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Bruce Sanders, Esq.
Public Arbitrator, Presiding Chairperson



Signature Date

Krishnan S. Chittur, Esq.
Public Arbitrator

Signature Date

Joseph J. Cassidy
Non-Public Arbitrator

Signature Date

April 26, 2004
Date of Service (For NASD Dispute Resolution use only)

NASD Dispute Resolution
Arbitration No. 03-03511
Award Page 4 of 4

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Joseph J. Cassidy	-	Non-Public Arbitrator

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Bruce Sanders, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Krishnan S. Chittur, Esq.
Public Arbitrator

Signature Date

Joseph J. Cassidy
Non-Public Arbitrator

Signature Date

April 26, 2004
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ARBITRATION PANEL

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Krishnan S. Chittur, Esq.	-	Public Arbitrator
Joseph J. Cassidy	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

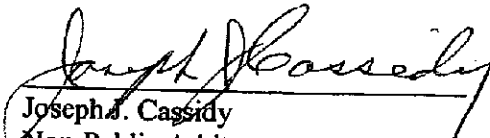
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Bruce Sanders, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Krishnan S. Chittur, Esq.
Public Arbitrator

Signature Date



Joseph J. Cassidy
Non-Public Arbitrator

4/23/04
Signature Date

Date of Service (For NASD Dispute Resolution use only)