

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Anthony Fabbri, Claimant v. TD Waterhouse Investor Services, Inc., Respondent

Case Number: 04-07951

Hearing Site: Los Angeles, California

Nature of the Dispute: Customer v. Member

REPRESENTATION OF PARTIES

For Claimant:

Anthony Fabbri
In Propria Persona
Hollywood, California

For Respondent:

Brian G. Mulherin, Esq.
Jones, Bell, Abbott, Fleming & Fitzgerald L.L.P.
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: November 12, 2004

Claimant's Uniform Submission Agreement signed: November 12, 2004

Statement of Answer filed by Respondent: January 12, 2005

Respondent's Uniform Submission Agreement signed: January 19, 2005

Answer to Respondent's Answer filed by Claimant: February 11, 2005

CASE SUMMARY

In the Statement of Claim and Answer to Respondent's Answer, Claimant alleged that Respondent executed sales in unregistered securities, delayed the execution of an order, and wrongfully sold securities on a margin call. Claimant's claims involved a margin account and shares in MCI, Inc.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested \$33,071.90 in actual damages, unspecified punitive damages, and unspecified costs, including forum fees, attorney's fees, witness fees, and production fees.

Respondent requested that Claimant take nothing by reason of the Statement of Claim, and costs incurred in these proceedings.

OTHER ISSUES CONSIDERED AND DECIDED

On December 1, 2004, Claimant 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.

Pursuant to the *Code of Arbitration Procedure* IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

The parties agreed that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, testimony, and evidence presented at the hearing, the Arbitrator 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	= \$ waived
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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	= \$ 875.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 1,000.00
Total Member Fees	= \$ 2,625.00

Forum Fees and Assessments

The Arbitrator 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 Arbitrator. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: March 11, 2005 1 session	
2 Hearing sessions @ \$450.00/session	= \$ 900.00
Hearing: July 6, 2005 2 sessions	
Total Forum Fees	= \$ 1,350.00

1. The Arbitrator assessed \$675.00 of the forum fees to Claimant.
2. The Arbitrator assessed \$675.00 of the forum fees to Respondent.

Fee Summary

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

Forum Fees	= \$ 675.00
<u>Less payments</u>	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 675.00

2. Respondent is charged with the following fees and costs:

Member Fees	= \$ 2,625.00
<u>Forum Fees</u>	<u>= \$ 675.00</u>
Total Fees	= \$ 3,300.00
<u>Less payments</u>	<u>= \$(2,625.00)</u>
Balance Due NASD Dispute Resolution	= \$ 675.00

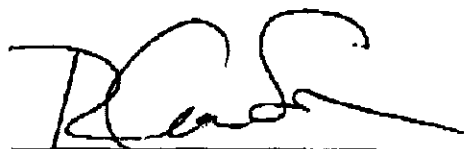
All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATOR

R. Carlton Seaver

Public Arbitrator, Presiding Chair

Arbitrator's Signature



R. Carlton Seaver
Chair, Public Arbitrator

July 7, 2005
Signature Date

7/7/05
Date of Service