

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION

CASE: 05-00895

Chris M. Zabak, (Claimant) vs. TD Waterhouse Investor Services, Inc., (Respondent)

ATTORNEYS:

Claimant appeared pro se, Houston, TX.

For Respondent appeared in-house counsel Janis Campanella, Boca Raton, FL.

NATURE OF DISPUTE: Customer vs. Member and Associated Person

DATE FILED: January 28, 2005

CASE SUMMARY: Claimant alleged that Respondent negligently handled his account by placing restrictions on it, which prevented him from executing orders. Claimant maintained that due to Respondent's actions, he suffered financial losses. Claimant's claim involved unspecified common stock.

ARBITRATOR'S REPORT: See attached Exhibit A.

Claim Data

Claim: \$10,000.00
Punitive: Unspecified

Award Data

Award: \$.00
Punitive: \$.00

AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) The claims of the Claimant are dismissed in their entirety. 2) All requests for punitive damages are denied. 3) All other relief requests are denied. 4) NASD Dispute Resolution previously waived the \$325.00 filing fee for the Claimant. 5) Respondent is liable and shall pay NASD Dispute Resolution \$325.00 as reimbursement of the filing fee.

OTHER FEES: Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Dispute Resolution the \$325.00 Member Surcharge previously invoiced.

OTHER ISSUES: The Arbitrator dismissed Respondent Edward William Galvin from this matter and ordered that his name be removed from the caption by agreement of the parties.


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Award 05-00895

Don K. Leufven, Esq.


Sole Public Arbitrator

AFFIRMATION

I, Don K. Leufven, Esq., do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.



Don K. Leufven, Esq.



(Signature Date)

SEPTEMBER 12, 2005
Date of Service (For NASD-DR office use only)

Exhibit A

Based on the pleadings, arguments, and documents submitted by the Claimant and Respondent for consideration, there was a customer service problem by Respondent, TD Waterhouse Investor Services, Inc., which will cause it to lose a customer, but I do not find a violation of legal or contractual obligations to execute the trades requested by Claimant, Chris M. Zabak.

The documents show that Claimant's primary e-mail address was discontinued, but the second e-mail address was not substituted by Respondent or Claimant in Respondent's records. In combination with the change of the primary e-mail address, the U.S. first class mail address was listed as 2601 C West Ln, rather than 2601 West Ln, Apt. C.

I find that Respondent's refusal to execute the on-line order(s) of Claimant on November 22, 2004, was related to Claimant's e-mail address change. Neither Claimant nor Respondent submitted a copy of a letter allegedly requesting all communications be sent to the e-mail address at yahoo.com rather than at netscape.net. There is no evidence that Claimant updated his e-mail preference to yahoo.com by making that change on-line or in writing under his account preferences. Thus, I do not find a legal or contractual violation by Respondent, despite possible customer service deficiencies.

Date: September 8, 2005

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Don K. Leufven
NASD Arbitrator

