

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Ahmed Hussein

93-02419

Name of Respondents

**Advest, Inc.
MML Investors Services, Inc.
Darrell C. Claytor**

REPRESENTATION

For Claimant Ahmed Hussein ("Claimant"): Andrew J. Crites, Attorney at law

**For Respondents Advest, Inc. ("Advest"), MML Investors Services, Inc. ("MML")
and Darrell C. Claytor ("Claytor"): Daniel L. Schwartz, Esq. of the law firm of
Day Berry & Howard**

CASE INFORMATION

Statement of Claim filed: June 18, 1993

Claimant's Submission Agreement signed on: July 8, 1993

**Joint Statement of Answer and Counterclaim filed by Respondents MML Investors
Services, Advest Inc., Darrell C. Claytor (collectively referred to as
"Respondents") on: September 29, 1993**

MML's Submission Agreement signed on: September 20, 1993

Advest's Submission Agreement signed on: September 20, 1993

Claytor's Submission Agreement signed on: September 21, 1993

Claimant's reply to the Counterclaim filed on: October 22, 1993

HEARING INFORMATION

Hearing Date/Sessions: March 30, 1994 - two sessions

Hearing Location: NASD Offices in Cleveland, Ohio

CASE SUMMARY

Claimant alleged that he went to Respondents to seek their help in rolling over 1062 shares of May Company stock. Claimant alleged that this was his retirement money that his objective was to maintain the IRA account and that he was seeking safety and security. Claimant alleged that Respondents made an unauthorized sale of his May stock. Claimant alleged that Respondents without his authorization placed a stop loss order at \$54 and that on May 14, 1992 his May stock was sold at \$53.75 a share. Claimant alleged that he was suffering from a life threatening illness and had no knowledge of the transaction. Claimant alleged that he suffered monetary damages due to Respondents premature sale of his May stock.

Respondents maintained that the stop loss was explained to Claimant and that the confirmation of the entry was sent to him. Respondents maintained that Claimant received a confirmation of the sale of his May stock and that the transaction was reported on his monthly account statement. Respondents maintained that Claimant failed to timely complain about the said transaction.

Respondents asserted a counterclaim against Claimant. Respondents alleged that Claimant's claim is frivolous. Respondents asserted that Claimant is attempting to extort a nuisance settlement from Respondents. Respondents counterclaimed that Claimant has caused damage to Respondents professional reputation and caused emotional distress to Claytor.

Claimant denied all allegations asserted by Respondents in their counterclaim.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$25,000, jointly and severally, from the Respondents.

Respondents requested that Claimant's claim be denied in its entirety and that they be awarded costs, including filing fees, expenses, attorneys' fees, punitive damages and an award for emotional distress.

OTHER ISSUES CONSIDERED & 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. In either

case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

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 claim is denied in its entirety.
2. That Respondent's counterclaim is denied in its entirety, except as specifically addressed below. (see forum fees)
3. That the parties shall each bear their own attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

The Panel has decided that forum fees shall be assessed against Claimant.

2 sessions X \$400 = \$800 minus Claimant's hearing session deposit of 400 = net \$400 due from Claimant.

Respondents hearing session deposit of \$600 shall be refunded to Respondents.

Claimant shall pay forum fees in the amount of \$400 to the National Association of Securities Dealers, Inc.

Concurring Arbitrator's Signature
Name

Public/Industry


Marvin J. Feldman, Esq.

NASD Date of Decision: April 19, 1994

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Public/Industry


Robert C. Devlin, Esq.

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Public/Industry


Robert Rapp, Esq.

NASD Date of Decision: April 19, 1994