

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Sam Tang

94-01159

Name of Respondent

Waterhouse Securities, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 28, 1994, Claimant Sam Tang, who appeared Pro Se, alleged that Respondent Waterhouse Securities, Inc., through its representatives, executed a duplicate sell trade of 100 shares of Intel Corp. which were not in Claimant's possession, and further alleged that on August 6, 1993 he had stopped a previous order to sell those shares and executed a new order to sell 100 shares at 57.25. The Claimant also alleged that due to the Respondent's negligence and the malfunctioning of the "Trade Direct System", both orders were executed, totalling sales of 200 shares even though Claimant owned only 100 shares of Intel Corp. stock, thereby incurring a loss. The Claimant contended that he has suffered damages due to Respondent's negligence and therefore should be compensated for his loss.

Respondent Waterhouse Securities, Inc., through its in-house counsel, Stephen Storen, Esq., maintained that the Claimant knowingly over sold 100 shares of Intel Corp. thereby causing a short position in his account. The Respondent also maintained that on August 6, 1993 Claimant cancelled the sell order he placed the previous day, but on the same day Claimant initiated another sell order for 100 shares which was executed. The Respondent contended that later that day Claimant placed another sell order through its "Trade Direct System" and indicated that he held these shares, and further that they accepted Claimant's orders in good faith, that they relied on his representations that he owned the stock, and they executed the trade in accordance with Claimants instruments. The Respondent contended that any loss suffered by the Claimant is due to his own decision to sell shares which he knew were not in his possession; therefore the claim should be dismissed.

RELIEF REQUESTED

Claimant Sam Tang requested \$658.84 in actual damages.

Respondent Waterhouse Securities, Inc. requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Martin L. Mandel, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 19, 1994 and by the Respondent on June 21, 1994.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimant Sam Tang against Respondent Waterhouse Securities, Inc. are dismissed in its entirety.
2. The parties shall bear their respective costs.
3. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Sam Tang shall be retained by the NASD, Inc.

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AFFIRMATION

I, **MARTIN L. MANDEL**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: February 17, 1995