

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

David and Elizabeth Ma, ("Claimants") vs. Ladenburg, Thalmann & Co., Inc. and Ted Shen, ("Respondents")

Case Number: 99-02876

Hearing Site: New York, NY

REPRESENTATION OF PARTIES

Claimants David and Elizabeth Ma, hereinafter collectively referred to as "Claimants": Marc Bogatin, Esq., a sole practitioner, New York, NY.

Respondents Ladenburg, Thalmann & Co., Inc. ("Ladenburg Thalmann") and Ted Shen ("Shen"), hereinafter collectively referred to as "Respondents": David S. Smith, Esq., Smith Campbell & Paduano, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: June 24, 1999.

Claimants submitted a signed undated Uniform Submission Agreement.

Statement of Answer filed by Respondents on or about: August 23, 1999.

Ladenburg Thalmann signed the Uniform Submission Agreement: August 13, 1999.

Shen signed the Uniform Submission Agreement: August 12, 1999.

CASE SUMMARY

Claimants asserted the following causes of action: fraud; breach of fiduciary duty; breach of the duty of good faith; unauthorized trading; conversion; and, failure to supervise.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants failed to state a claim upon which relief may be granted; Claimants authorized all transactions attributable to their account; Ladenburg Thalmann was not negligent in its supervision of Claimants' accounts and it did not fail to supervise their accounts; the doctrines of laches, ratification, waiver, and consent; Respondents acted within all applicable laws, rules, and regulations; Claimants failed to mitigate damages; Claimants did not reasonably rely to their detriment on any action or inaction legally attributable to Ladenburg; and, Respondents acted in good faith.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages

\$113,718.75

Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified

Respondents requested an award dismissing the Statement of Claim in its entirety plus costs and expenses, including attorneys' fees and forum fees.

OTHER ISSUES CONSIDERED AND DECIDED

During the hearings in this matter, Claimant provided an interpreter without notice but without objection from Respondents. This interpreter translated a portion of the testimony.

Respondents did not request expungement of the CRD record of Shen, however, the Panel determined that his CRD record should be expunged.

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, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims be and are hereby denied in their entirety.
2. Upon confirmation of this Award by a court of competent jurisdiction, NASD Regulation, Inc. shall expunge all references to this arbitration from the permanent CRD records of Respondent Shen.
3. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:
Initial claim filing fee = \$ 300.00

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 event giving rise to the dispute. In this matter, Ladenburg, Thalmann & Co., Inc. is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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 x \$1,125.00	= \$1,125.00
Pre-hearing conference: December 14, 1999	1 session
Five (5) Hearing sessions x \$1,125.00	= \$5,625.00
Hearing Dates: March 29, 2000	2 sessions
March 30, 2000	2 sessions
April 3, 2000	1 session
Total Forum Fees	= \$6,750.00

1. The Panel has assessed \$3,375.00 of the forum fees against Claimants.
2. The Panel has assessed \$3,375.00 of the forum fees jointly and severally against Ladenburg Thalmann and Shen.

Fee Summary

1. Claimants be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$3,375.00
Total Fees	= \$3,675.00
Less payments	= \$1,425.00
Balance Due NASD Regulation, Inc.	= \$2,250.00
2. Ladenburg Thalmann be and hereby is solely liable for:

Member Fees	= \$4,600.00
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Total Fees	= \$4,600.00
<u>Less payments</u>	<u>= \$2,100.00</u>
Balance Due NASD Regulation, Inc.	= \$2,500.00

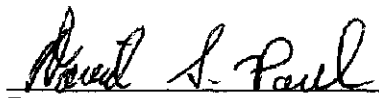
3. Ladenburg Thalmann and Shen be and hereby are jointly and severally liable for:

<u>Forum Fee</u>	<u>= \$3,375.00</u>
Total Fees	= \$3,375.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Regulation, Inc.	= \$3,375.00

All balances are due and payable to NASD Regulation, Inc.

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.



David S. Paul, Esq.
Public Arbitrator, Presiding Chair

April 25, 2000

Signature Date

Carolyn A. Mann
Public Arbitrator

Signature Date

Alan J. Blocher
Industry Arbitrator

Signature Date

April 28, 2000

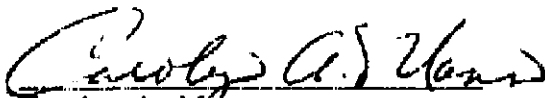
Date of Service (For NASD office use only)

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David S. Paul, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Carolyn A. Mann
Public Arbitrator



Signature Date

Alan J. Blocher
Industry Arbitrator

Signature Date

April 28, 2000
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