

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

David S. Leonard Trustee f/b/o Accountancy Corporation Defined Benefit Pension Plan & Trust dated 3/18/87, Claimant v. Kennedy, Cabot & Company (n/k/a Calabasas Asset Holding Co., Inc.), Waterhouse Securities, Inc. (a/k/a TD Waterhouse Securities) and Herbert Voss, Jr., Respondents

Case Number: 99-03343

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant:

Steven L. Miller, Esq.
Law Office of Steven L. Miller
Woodland Hills, California

For Respondents Kennedy, Cabot & Company
(n/k/a Calabasas Asset Holding Co., Inc.)
and Herbert Voss, Jr.:

George H. Kupper, Esq.
The Gebbia Group
Beverly Hills, California

CASE INFORMATION

Statement of Claim filed: June 9, 1999

Claimant's Uniform Submission Agreement signed: June 14, 1999

Statement of Answer filed by Respondents Kennedy, Cabot & Company
(n/k/a Calabasas Asset Holding Co., Inc.) and Herbert Voss, Jr.: November 11, 1999

Respondent Kennedy, Cabot & Company's (n/k/a Calabasas Asset Holding Co., Inc.) Uniform Submission Agreement signed: November 9, 1999

Respondent Herbert Voss, Jr.'s Uniform Submission Agreement signed: November 9, 1999

Statement of Answer filed by Respondent Waterhouse Securities, Inc. (a/k/a TD Waterhouse Securities): July 18, 2000

CASE SUMMARY

Claimant alleged violations of the Employment Retirement Income Security Act of 1974 (ERISA), sale of an unregistered/"non-blueskied" security, and misrepresentation in connection with the purchase of a Grupo Mexicano De Desarrollosa bond.

All Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested restitution of \$37,338.21 plus interest at the rate of 10% per annum from May 1, 1997 less an offset of \$800.00 (the current value of the bond). Alternatively, Claimant requested compensatory damages in the amount of \$37,338.21 plus interest at the rate of 18.533% per annum from February 1, 1997. Claimant also requested attorney's fees, punitive damages, and costs.

Respondents Kennedy, Cabot & Company (n/k/a Calabasas Asset Holding Co., Inc.) and Herbert Voss, Jr. requested dismissal of the Claimant's Statement of Claim in its entirety.

Respondent Waterhouse Securities, Inc. (a/k/a TD Waterhouse Securities) requested dismissal of the Claimant's Statement of Claim in its entirety, and sought an award of costs.

OTHER ISSUES CONSIDERED AND DECIDED

On July 14, 2000, Claimant dismissed Respondent Waterhouse Securities, Inc. (a/k/a TD Waterhouse Securities) with prejudice.

On August 15, 2000, Claimant withdrew from the Statement of Claim the unregistered securities /"non-blueskied" issues. The remaining parties stipulated that the issues submitted to the Panel for consideration were limited to 1) misrepresentation; 2) whether ERISA applies; and 3) the extent of what, if any, damages Claimant would be entitled.

On September 18, 2000, the parties stipulated and requested the Panel order the expungement of all reference to the claim of "sale of an unregistered/"non-blueskied" security" from Respondent Herbert Voss, Jr.'s regulatory registration. The Panel granted the request.

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

- 1) Claimant's claims are denied in their entirety.
- 2) Claimant's claim for punitive damages is denied.
- 3) Each party shall bear its own costs including attorney's fees.
- 4) The Panel recommends the expungement of all reference to the claim of "sale of an unregistered/"non-blueskied" security" from Respondent Herbert Voss, Jr.'s registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Herbert Voss, Jr. must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 5) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 175.00
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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 event of the dispute. Accordingly, the member firm Kennedy, Cabot & Company (n/k/a Calabasas Asset Holding Co., Inc.) is a party and the following fees are assessed:

Member Surcharge	= \$ 800.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$1,000.00</u>
Total Member Fees	= \$2,400.00

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 event of the dispute. Accordingly, the member firm Waterhouse Securities, Inc. (a/k/a TD Waterhouse Securities) is a party and the following fees are assessed:

Member Surcharge	= \$ 800.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$1,000.00</u>
Total Member Fees	= \$2,400.00

Forum Fees and Assessments

The Panel 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 Panel. The following fees are assessed:

(2) Pre-hearing conference sessions with the Panel @ \$600.00/session	= \$1,200.00
Pre-hearing conferences: May 23, 2000 1 session	
August 10, 2000 1 session	
(2) Hearing sessions @ \$600.00/session	= \$ 1,200.00
Hearings: September 18, 2000 2 sessions	
Total Forum Fees	= \$ 2,400.00

1. The Panel assessed \$1,200.00 of the forum fees to Claimant David S. Leonard Trustee f/b/o Accountancy Corporation Defined Benefit Pension Plan & Trust dated 3/18/87.
2. The Panel assessed \$1,200.00 of the forum fees jointly and severally to Kennedy, Cabot & Company (n/k/a Calabasas Asset Holding Co., Inc.) and Herbert Voss, Jr.

Fee Summary

1. Claimant David S. Leonard Trustee f/b/o Accountancy Corporation Defined Benefit Pension Plan & Trust dated 3/18/87 is charged with the following fees and costs:

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= \$ 1,200.00
Total Fees	= \$ 1,375.00
<u>Less payments</u>	= \$ (775.00)
Balance Due NASD Dispute Resolution, Inc.	= \$ 600.00

2. Respondent Kennedy, Cabot & Company (n/k/a Calabasas Asset Holding Co., Inc.) is charged with the following fees and costs:

Member Fees	= \$ 2,400.00
<u>Less payments</u>	= \$(2,400.00)
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

3. Respondent Waterhouse Securities, Inc. (a/k/a TD Waterhouse Securities) is charged with the following fees and costs:

Member Fees	= \$ 2,400.00
<u>Less payments</u>	= \$(1,800.00)
Balance Due NASD Dispute Resolution, Inc.	= \$ 600.00

4. Respondents Kennedy, Cabot & Company (n/k/a Calabasas Asset Holding Co., Inc.) and Herbert Voss, Jr. are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$ 1,200.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,200.00

All balances are payable to NASD Dispute Resolution, Inc. and are due within 30 days of the Award's date of service.

Concurring Arbitrators' Signatures



Alan Stamm, Esq.
Chair, Public Arbitrator

9/18/00

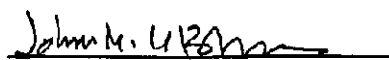
Signature Date



Lambert M. Javelera, Esq.
Public Arbitrator

9/18/00

Signature Date



John Michael LeBlanc, Esq.
Non-Public Arbitrator

9/18/00

Signature Date

September 18, 2000

Date of Service