

**Award**  
**NASD Dispute Resolution, Inc.**

In the Matter of the Arbitration Between

Name of Claimant

Song S. Choe

vs.

Case No. 99-04007

Name of Respondents

Scottsdale Securities, Inc.  
Mark Finnegan  
Stuart Barth

**REPRESENTATION OF PARTIES**

Claimant, Song S. Choe, hereinafter referred to as "Claimant" appeared *pro se*.

Respondents, Scottsdale Securities, Inc. ("Scottsdale"), Mark Finnegan ("Finnegan") and Stuart Barth ("Barth"), hereinafter collectively referred to as "Respondents": Thomas Douglass, Esq., Thompson Coburn, LLP, St. Louis, Missouri

**CASE INFORMATION**

Statement of Claim filed on or about: August 31, 1999

Statement of Answer to Counterclaim on or about: February 14, 2000

Claimant signed the Uniform Submission Agreement: August 27, 1999

Statement of Answer and Counterclaim filed by Respondents on or about: January 18, 2000  
Respondent, Scottsdale, had the Uniform Submission Agreement executed by Mark Finnegan, Compliance Manager.

Respondent Barth executed the Uniform Submission Agreement.

Respondent Finnegan executed the Uniform Submission Agreement.

**CASE SUMMARY**

Claimant alleged Respondents liquidated his 12,270 shares of Lycos, Inc. without authorization, fraudulently claiming the need to liquidate the securities to meet a margin call.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim, the doctrine of laches; proximate cause; assumption of risk; the doctrines of waiver, ratification and acquiescence; contributory negligence; estoppel; a failure to mitigate and a failure to take reasonable care.

In the Counterclaim, Respondents asserted that the liquidation of Claimant's account resulted in a debit balance of \$56,569.05.

### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$660,197.00
- Punitive Damages	\$1,850,000

Respondent Scottsdale requested:

Compensatory Damages	\$62,000
Attorneys' Fees	Amount Not Specified
Other Costs	Amount Not Specified

### **OTHER ISSUES CONSIDERED AND 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.

### **AWARD**

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

1. That Scottsdale Securities, Inc. is liable to and shall pay to Claimant \$40,317, with interest at the rate of 6% thereon from August 28, 1998 until paid in full; and
2. That the claims against Respondents Barth and Finnegan are denied; and
3. That the Counterclaim is denied; and
4. That each party shall bear their own costs and expenses, including attorneys' fees, with the exception of forum fees as specified below; and
5. That any and all relief not specifically addressed herein, including punitive damages, is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

- Initial claim filing fee = \$500
- Counterclaim filing fee = \$1,000

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

- Member surcharge = \$2,500
- Pre-hearing process fee = \$600
- Hearing process fee = \$4,500

#### **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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

- 1 Pre-hearing session with a single arbitrator x \$450 = \$450
- Pre-hearing conference: September 21, 2000 1 session
- 2 Pre-hearing sessions with Panel x \$1,200 = \$2,400
- Pre-hearing conferences: May 24, 2000 1 session
- June 23, 2000 1 session
- 3 Hearing sessions x \$1,200 = \$3,600
- Hearing Dates: October 3, 2000 2 sessions
- November 1, 2000 1 session
- Total Forum Fees = \$6,450

The Panel assessed \$3,225 of the forum fees to Claimant.

The Panel assessed \$3,225 of the forum fees, jointly and severally, to Respondents.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$500
Forum Fees	= <u>\$3,225</u>
Total Fees	= \$3,725
Less payments	= <u>\$1,700</u>
Balance Due NASD Dispute Resolution, Inc.	= \$2,025

Respondent, Scottsdale, is solely liable for:

Type Filing Fee	= \$1,000
Member Fees	= <u>\$7,600</u>
Total Fees	= \$8,600
Less payments	= <u>\$8,600</u>
Balance Due NASD Dispute Resolution, Inc.	= -0-

Respondents are jointly and severally liable for:

Forum Fees	= \$3,225
Less payments	= <u>\$750</u>
Balance Due NASD Dispute Resolution, Inc.	= \$2,475

All balances are due and payable to NASD Dispute Resolution, Inc.

**CONCURRING ARBITRATORS' SIGNATURES**

John H. West, III  
John H. West, III, Esq.  
Industry Arbitrator, Presiding Chairman

11/9/00  
Date Signed

Laura D. Schudt  
Laura D. Schudt  
Public Arbitrator

                      
Date Signed

John Laing Bowles  
John Laing Bowles  
Public Arbitrator

                      
Date Signed

November 28, 2000  
Date of Service (For NASD-DR office use only)

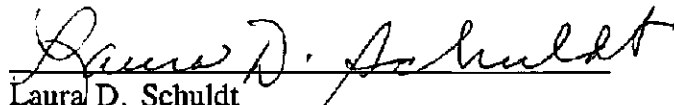
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John H. West, III, Esq.  
Industry Arbitrator, Presiding Chairman

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Date Signed

  
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Laura D. Schuldt  
Public Arbitrator

11-10-2000  
\_\_\_\_\_  
Date Signed

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John Laing Bowles  
Public Arbitrator

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Date Signed


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Laura D. Schuldt  
Public Arbitrator

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Date Signed

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John Laing Bowles  
Public Arbitrator

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11/9/2000  
Date Signed

November 28, 2000  
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