

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Stanley Freundlich and Judith Freundlich, (Claimants) vs. Ladenburg Thalman & Co. Inc. and David Epstein, (Respondents)

Case Number: 01-00595

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimants, Stanley Freundlich ("S. Freundlich") and Judith Freundlich ("J. Freundlich"), hereinafter collectively referred to as "Claimants": Fred N. Knopf, Esq., Wilson, Elser, Moskowitz, Edelman & Dicker LLP, New York, NY.

Respondents, Ladenburg Thalman & Co. Inc. ("Ladenburg") and David Epstein ("Epstein"), hereinafter collectively referred to as "Respondents": David S. Smith, Esq., Smith Campbell, LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: January 29, 2001.

S. Freundlich signed the Uniform Submission Agreement: January 23, 2001

J. Freundlich signed the Uniform Submission Agreement: January 23, 2001.

Joint Statement of Answer filed by Respondents on or about: April 27, 2001.

Ladenburg did not sign a Uniform Submission Agreement.

Epstein did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: misrepresentations and omissions; breach of fiduciary obligations; failure to supervise; breach of customer agreement; negligence and gross negligence; negligent misrepresentation; respondent superior; and fraud. Claimants' claim involved the stock of Computron Software ("Computron").

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants failed to mitigate their losses; Claimants cannot credibly claim that they did not understand the risks of a stock like Computron or that the investment was unsuitable for them; Claimants' account was filled with speculative, high-tech securities; Claimants were sophisticated investors with many years of experience in the stock market; the Statement of Claim on its face displays a careless disregard for objective facts; and the Statement of Claim does not even attempt to articulate any way in which Ladenburg was remiss in failing to prevent or detect an alleged oral misrepresentation.

RELIEF REQUESTED

Claimants requested a complete refund of all funds expended on the purchase of Computron stock, plus attorneys' fees, and damages to prevent Respondents from engaging in such behavior in the future.

Respondents requested dismissal of the Statement of Claim with prejudice; assessment of all forum costs against Claimants; and an Award of Respondents' reasonable attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

Claimants S. Freundlich and J. Freundlich did not appear at the hearing which took place on March 25, 2002. Claimant's counsel advised the Panel that he was not ready to proceed with his case because he was not able to get in touch with his clients. Respondents then made a motion to dismiss this arbitration, with prejudice. After due consideration, the Panel granted said motion.

Ladenburg and Epstein did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

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, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are hereby dismissed in their entirety, with prejudice.
2. Claimants be and hereby are jointly and severally liable for and shall pay to Ladenburg the sum of \$20,000.00 as attorneys' fees.
3. Claimants be and hereby are jointly and severally liable for and shall pay to Epstein the sum of \$247.25 as costs incurred for travel expenses.
4. All other requests for relief are hereby 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 = \$ 250.00

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

Member surcharge = \$1,200.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$2,000.00

Adjournment Fees

Adjournments requested during these proceedings:


January 23 & 24, 2002, adjournment by Claimants = WAIVED

ARBITRATION PANEL

Ronald T. Quinlan, III, Esq.	-	Public Arbitrator, Presiding Chair
John J. McCaffery	-	Public Arbitrator
Paul K. Barenholtz, Esq.	-	Industry Arbitrator

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.



Ronald T. Quinlan, III, Esq.
Public Arbitrator, Presiding Chair

6/3/02

Signature Date

John J. McCaffery
Public Arbitrator

Signature Date

Paul K. Barenholtz, Esq.
Industry Arbitrator

Signature Date

June 4, 2002

Date of Service (For NASD office use only)

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 \$1,000.00		= \$1,000.00
Pre-hearing conference: August 9, 2001	1 session	
One (1) Hearing session x \$1,000.00		= \$1,000.00
Hearing Date: March 25, 2002	1 session	
Total Forum Fees		= \$2,000.00

The Panel has assessed all of the forum fees jointly and severally against Claimants.

Fee Summary

1. Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= <u>\$2,000.00</u>
Total Fees	= \$2,250.00
<u>Less payments</u>	= <u>\$1,425.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 825.00

2. Ladenburg be and hereby is solely liable for:

<u>Member Fees</u>	= <u>\$3,800.00</u>
Total Fees	= \$3,800.00
<u>Less payments</u>	= <u>\$4,400.00</u>
Refund Due Ladenburg	= \$ 600.00

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

ARBITRATION PANEL

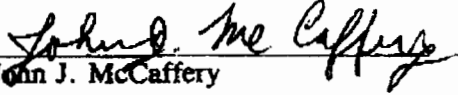
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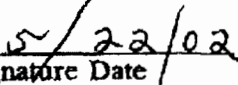
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Public Arbitrator


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Paul K. Barenholtz, Esq.
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