

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

D. Richard Tonge
Estate of Leslie Tonge
LT Investments, Inc.

Case Number: 99-03665

Name of the Respondents

All-Tech Investment Group, Inc.
Richard Kessler

Hearing Site: Philadelphia, Pennsylvania

REPRESENTATION OF PARTIES

Claimants D. Richard Tonge ("Tonge"), Estate of Leslie Tonge ("Estate"), and LT Investments, Inc. ("LTI"), hereinafter referred to as ("Claimants"), were represented by Edward Fackenthal, Esq., Henderson, Wetherill, O'Hey & Horsey, Norristown, Pennsylvania.

Respondent All-Tech Investment Group, Inc. ("All-Tech") was represented by Robert W. Pearce, Esq., Robert Wayne Pearce PA, Boca Raton, Florida, and Linda Lerner, Esq., All-Tech Investment Group, Inc., Montvale, New Jersey.

Respondent Richard Kessler ("Kessler") was represented by Carole R. Bernstein, Esq., Law Offices of Carole R. Bernstein, Westport, Connecticut.

CASE INFORMATION

Statement of Claim filed by Claimants on July 15, 2002.

Claimant Tonge signed the Uniform Submission Agreement on August 5, 1999.

Claimant Tonge, as assignee of Claimant Estate, signed a Uniform Submission Agreement on August 5, 1999.

Claimant Tonge, on behalf of Claimant LTI, signed a Uniform Submission Agreement on August 5, 1999.

Statement of Answer filed by Respondent All-Tech on October 27, 1999.

A representative of Respondent All-Tech signed the Uniform Submission Agreement on October 26, 1999.

Respondent Kessler did not file Statement of Answer.

Respondent Kessler did not file a Uniform Submission Agreement.

Respondent Kessler filed a Statement Asserting Lack of Jurisdiction on May 1, 2001.

Claimants filed a Reply to Respondent Kessler's Statement Asserting Lack of Jurisdiction on May 16, 2000.

Respondent Kessler filed a Reply to Claimants' Response to Respondent Kessler's Statement Asserting Lack of Jurisdiction on June 22, 2000.

CASE SUMMARY

Claimants in their Statement of Claim asserted the following causes of action, among others: churning; failure to supervise; misrepresentation; breach of fiduciary duty; and, negligence. The causes of action relate to day trading of over-the-counter securities.

Unless specifically admitted in its Answer, Respondent All-Tech denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant LTI's claim should be dismissed for lack of standing; failure to state a claim upon which relief may be granted; no private right of action for violating margin rules; doctrine of assumption of risk; Respondent All-Tech acted in good faith and did not violate any law, rule or standard of conduct; Respondent Kessler was not employed by Respondent All-Tech; Claimants have failed to state a claim against All-Tech; doctrine of contributory negligence; Claimants acted in reckless disregard of the information provided them by Respondent All-Tech; doctrine of estoppel; Claimants' claim is barred by doctrines of waiver and ratification; Claimants failed to mitigate damages; Respondent All-Tech did not breach its fiduciary duty; Claimants incorrectly stated amount of loss; and, Claimants are barred from seeking recovery to extent Claimants realized tax savings and/or cash income.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$ 192,122.00
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Respondent All-Tech in its Statement of Answer requested this proceeding be dismissed, with prejudice, and that it be awarded all costs and fees, including attorney's fees, incurred by All-Tech in the defense of this matter.

OTHER ISSUES CONSIDERED AND DECIDED

NASD Dispute Resolution denied Respondent Kesslers' Motion Challenging NASD Dispute Resolutions' Jurisdiction on August 28, 2000. Judge Diane A. Lebedeff of the Supreme Court of New York – New York City issued an order permanently staying the arbitration as against Respondent Kessler on February 15, 2001. NASD Dispute Resolution removed Respondent Kessler as a party in this matter on February 26, 2002.

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. The Claimants claims are denied in their entirety;

2. Claimants shall pay Respondent All-Techs' attorneys' fees in the amount of \$51,125.45, pursuant to New Jersey state law;
3. The parties shall bear their respective costs except as Fees are specifically addressed below; and,
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Respondent All-Tech is a party.

Member surcharge	= \$ 1,500.00
Pre-hearing process fee	= \$ 600.00
<u>Hearing process fee</u>	<u>= \$ 2,500.00</u>
Total Member Fees	= \$ 4,600.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

December 3, 4, 5, 6, 2002, adjournment by Respondent All-Tech.	= \$ 1,125.00
May 20, 21, 22, 23, 2003, adjournment by Claimants.	= \$ 1,125.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

One (1) Pre-hearing session with a single arbitrator @ \$ 450.00	= \$ 450.00
Pre-hearing conference: June 27, 2002 1 session	
One (1) Pre-hearing session with Panel @ \$ 1,125.00	= \$ 1,125.00
Pre-hearing conference: May 29, 2002 1 session	

Four (4) Hearing sessions @ \$ 1,125.00		= \$ 4,500.00
Hearing Dates:	July 8, 2003	2 sessions
	July 9, 2003	2 sessions
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Total Forum Fees		= \$ 6,075.00

1. The Panel has assessed \$ 6,075.00 of the forum fees jointly and severally to Claimants.

EEE SUMMARY

1. Claimants are jointly and severally assessed the following fees:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 6,075.00
<u>Adjournment Fee</u>	<u>= \$ 1,125.00</u>
Total Fees	= \$ 7,500.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 6,075.00

2. Respondent All-Tech is assessed the following fees:

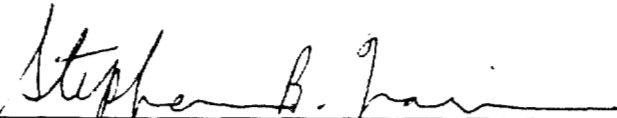
Member Fees	= \$ 4,600.00
<u>Adjournment Fee</u>	<u>= \$ 1,125.00</u>
Total Fees	= \$ 5,725.00
<u>Less payments</u>	<u>= \$ 5,725.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

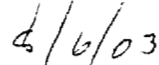
ARBITRATION PANEL

Stephen B. Narin, Esq.	-	Public Arbitrator, Presiding Chairperson
Richard A. Flores, Esq.	-	Public Arbitrator, Panelist
James M. Waters	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Stephen B. Narin, Esq.
Public Arbitrator, Presiding Chairperson



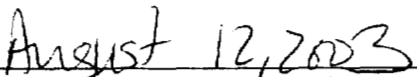
Signature Date

Richard A. Flores, Esq.
Public Arbitrator, Panelist

Signature Date

James M. Waters
Non-Public Arbitrator, Panelist

Signature Date

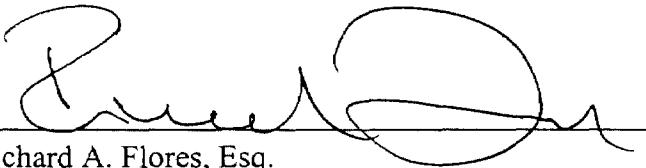


Date of Service (For NASD Dispute Resolution office use only)

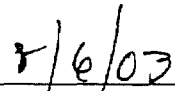
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Stephen B. Narin, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



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Public Arbitrator, Panelist



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James M. Waters
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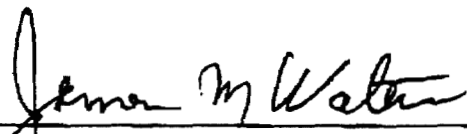
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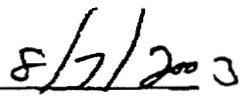
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