

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Margaret Cruz, (Claimant) vs. Drake & Company, Inc., Millennium Securities Corp., and
Brandon Negron, (Respondents)

Case Number: 00-04669

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, Margaret Cruz, hereinafter referred to as "Claimant": Marcel Weisman, Esq., Law
Offices of Marcel Weisman, New York, NY.

Respondent, Drake & Company, Inc. ("Drake"), did not appear at the hearing in this matter.
Previously represented by: David S. Smith, Esq., Smith Campbell, LLP, New York, NY.

Respondents, Millennium Securities Corp. ("Millennium") and Brandon Negron ("Negron"),
did not appear at the hearing in this matter. Previously represented by: Rick Cardillo, Esq.,
General Counsel, Millennium Securities Corp., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: October 20, 2000.

Claimant signed the Uniform Submission Agreement: September 14, 2000.

Statement of Answer filed by Drake on or about: February 16, 2001.

Drake did not sign a Uniform Submission Agreement.

Joint Statement of Answer filed by Millennium and Negron on or about: December 21, 2000.

Millennium signed the Uniform Submission Agreement: December 21, 2000.

Negron did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: unauthorized trades and improper use of
margin. Claimant's claim involved the stocks of Compaq Computer Corp., Tam Restaurants
Inc., International Business Machines Corp., Dell Computer Corp., 7th Level Inc.,
Cybershop International Inc., and PC Order Com Inc.

Unless specifically admitted in their Answer, Millennium and Negron denied the allegations made in the Statement of Claim and asserted the following defenses: Respondents did not guarantee Claimant's return on any investments; Claimant contributed to and/or assumed the risk of her alleged losses; any losses sustained by Claimant resulted solely from the vagaries and volatilities of the securities markets, and not from any purported wrongdoing by Respondents; Millennium fully complied with all applicable rules and regulations regarding the supervision of Claimant's account; Claimant's investment portfolio must be considered in its entirety, and not just with respect to selected investments with which she might be unhappy; Claimant approved, authorized, and/or ratified the acts complained of and, accordingly, is precluded from asserting claims based on those decisions as a basis for recovery; Claimant's claims are barred by the doctrines of estoppel, waiver, ratification, and laches; Claimant failed to mitigate her alleged damages; Claimant's claims are time-barred by virtue of the expiration of the applicable statutes of limitation; and all risks concerning Claimant's investments through Respondents were properly disclosed to Claimant.

RELIEF REQUESTED

In her Statement of Claim, Claimant requested:

| | |
|----------------------|-------------|
| Compensatory Damages | \$26,000.00 |
| Punitive Damages | \$24,000.00 |
| Attorneys' Fees | \$ 5,000.00 |
| Forum Fees | \$ 625.00 |

During the hearing in this matter, Claimant reduced the amount of compensatory damages sought to \$15,872.50.

Millennium and Negron requested an Award:

- a. Dismissing the Statement of Claim;
- b. Granting them their costs, including attorneys' fees; and
- c. Granting them such other and further relief as the Arbitrator deems just and appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

By letter dated November 19, 2001, Claimant informed NASD Dispute Resolution, Inc. that she had entered into a settlement agreement with Respondent Drake.

During the hearing in this matter, Claimant advised the Arbitrator that she was withdrawing her claims against Respondent Millennium.

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrator (the "Arbitrator") determined that Negron has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without Negron present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Drake and Negron did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Arbitrator 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, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Negron be and hereby is solely liable for and shall pay to Claimant the sum of \$12,247.50 as compensatory damages, plus \$1,530.95 representing 9% interest for the period of June 30, 2000 to November 20, 2001, for a total of \$13,778.45. Negron be and hereby is further liable for and shall pay to Claimant interest at the rate of 9% per year on said \$13,778.45, accruing from November 21, 2001 until paid.
2. Negron be and hereby is solely liable for and shall pay to Claimant the sum of \$3,000.00 as attorneys' fees. The Arbitrator awarded attorneys' fees on the basis of quantum meruit.
3. Claimant's request for punitive damages is hereby denied.
4. Drake, Millennium, and Negron be and hereby are jointly and severally liable for and shall pay to Claimant the sum of \$175.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution, Inc.
5. 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 = \$ 175.00

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. In this matter, Drake & Company, Inc. and Millennium Securities Corp. are parties.

Drake & Company, Inc.

Member surcharge = \$ 800.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$1,000.00

Millennium Securities Corp.

Member surcharge = \$ 800.00
Pre-hearing process fee = \$ 600.00

Forum Fees and Assessments

The Arbitrator assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator x \$450.00 = \$ 900.00

Pre-hearing conferences: June 13, 2001 1 session
July 20, 2001 1 session

One (1) Hearing session x \$450.00 = \$ 450.00

Hearing Date: November 20, 2001 1 session

Total Forum Fees = \$1,350.00

The Arbitrator has assessed all of the forum fees jointly and severally against Drake, Millennium, and Negron.

Fee Summary

1. Claimant be and hereby is solely liable for:

| | |
|----------------------------|-------------|
| <u>Initial Filing Fee</u> | = \$ 175.00 |
| <u>Total Fees</u> | = \$ 175.00 |
| <u>Less payments</u> | = \$ 625.00 |
| <u>Refund Due Claimant</u> | = \$ 450.00 |

As stated in the "Award" section above, Drake, Millennium, and Negron are jointly and severally liable and shall reimburse Claimant for the \$175.00 filing fee.

2. Drake be and hereby is solely liable for:

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

3. Millennium be and hereby is solely liable for:

| | |
|--|--------------|
| <u>Member Fees</u> | = \$1,400.00 |
| <u>Total Fees</u> | = \$1,400.00 |
| <u>Less payments</u> | = \$ 800.00 |
| <u>Balance Due NASD Dispute Resolution, Inc.</u> | = \$ 600.00 |

4. Drake, Millennium, and Negron be and hereby are jointly and severally liable for:

| | |
|--|--------------|
| <u>Forum Fees</u> | = \$1,350.00 |
| <u>Total Fees</u> | = \$1,350.00 |
| <u>Less payments</u> | = \$ 0.00 |
| <u>Balance Due NASD Dispute Resolution, Inc.</u> | = \$1,350.00 |

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

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ARBITRATION PANEL

Eugene S. Ginsberg, Esq. - Public Arbitrator

Arbitrator's Signature

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.



Eugene S. Ginsberg, Esq.
Public Arbitrator

December 11, 2001
Signature Date

December 14, 2001

Date of Service (For NASD office use only)