

**STIPULATED AWARD  
NASD REGULATION, INC.**

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In the Matter of the Arbitration Between: :

ROMEO CONTI, : NASD Arb. No.: 01-00063

Claimant, :

- against - :

DRAKE CAPITAL SECURITIES, INC., :  
EDWARD HAGGERTY, MICHELE D. :  
WESSEL, DANIEL LEVINE, EDWARD :  
MOLDAVER and PARAGON :  
CAPITAL MARKETS, :

Respondents. :

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**REPRESENTATION OF PARTIES**

Claimant Romeo Conti ("Claimant") was represented by Michael H. Ference, Esq. of the law firm of Sichenzia, Ross, Friedman & Ference LLP located in New York, New York.

Drake & Co., Inc., Michele D. Wessel, Daniel Levine, and Paragon Capital Markets ("Drake Respondents") were represented by David Smith, Esq. of the law firm of Smith Campbell LLP located in New York, New York.

Edward Haggerty appeared *pro se*.

Edward Moldaver appeared *pro se*.

**CASE INFORMATION**

The Statement of Claim was filed on or about January 23, 2001, along with Claimant's Uniform Submission Agreement. The Respondents filed responsive pleadings denying liability and seeking dismissal of the claims against them. On January 8, 2002, Claimant withdrew his claims against all individual respondents.

**HEARING INFORMATION**

The Panel conducted two pre-hearing conference calls on August 14, 2001 and October 15, 2001. No evidentiary hearing was held due to the fact that the remaining parties notified the NASD that they had reached an amicable settlement.

### CASE SUMMARY

Claimant brought the above-captioned arbitration against Drake & Co., Inc. ("Drake"), Michele D. Wessel, Daniel Levine, Paragon Capital Markets, Edward Haggerty and Edward Moldaver alleging various causes of action in connection with his employment at Drake & Co., Inc. In particular, Claimant sought expungement of that portion of Claimant's Form U-5, dated January 10, 2000 filed by Drake, that sets forth the reason for termination from Drake and setting forth in its place "Voluntary". In addition, Claimant sought damages for a promised an override component of his salary at Drake. Respondents denied liability.

### RELIEF REQUESTED

Claimant sought damages in an amount to be proven at the Hearing but in no event less than \$35,000; Respondents requested that the Statement of Claim be denied in its entirety.

### AWARD

After considering the pleadings and the parties' joint request for expungement, the undersigned arbitrators have decided in full and final resolution of the issues submitted for arbitration as follows:

Upon confirmation of this award by a court of competent jurisdiction, NASD Regulation, Inc. shall expunge all references to the Involuntary Termination on Form U-5 dated January 10, 2000, filed by Drake & Co., Inc. from the permanent CRD records of Claimant Romeo Conti and replace same with a Voluntary Termination on Form U-5 dated January 10, 2000.

### FORUM FEES

IT IS ORDERED that the forum fees are to be borne equally by Claimant and Respondent Paragon, pro rata, except that Claimant shall be responsible for payment of all forum costs relating to the pre-hearing conference conducted on October 15, 2001, as set forth in the Chairman's Order dated October 17, 2001.

Explanation of Arbitrator's Dissent in:

Romeo Conti – against Drake Capital Securities, et al.  
(NASD Arb. No. 01-00063)

April 12, 2002

A conference call was held on April 8, 2002 called by the Arbitrators to determine if the panel should issue an order in settlement, subject to court approval, expunging references to an "Involuntary Termination" on claimant Romeo Conti's ("Conti") Form U-5 filed by Drake & Co ("Drake").

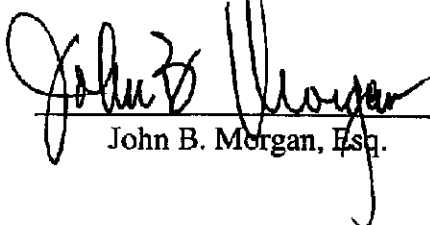
During the conference call it was clear to this Arbitrator that while the parties were satisfied with the settlement agreement reached calling for the removal of "Involuntary Termination" on Conti's Form U-5 by order of this panel, there was no basis upon the panel could order such an expungement.

Drake, at all times, maintains and has maintained that the Form U-5 correctly stated that the reasons for Conti's dismissal and that such dismissal was in fact not voluntary, but rather for the reasons stated in the original Form U-5. It should be noted that Conti did not concur with Drake's assessment. While in the interest of reducing expense and the time required for a hearing on this matter, which I applaud, I do not believe that any evidence presented to this panel would enable the Arbitrators to expunge Conti's record.

This Arbitrator must conclude Drake consented to this order only to gain a favorable settlement in the matter. Clearly Drake will never be placed in a position where the expunged Form U-5 will impact their business, the same may not be true of other firms and regulators who are now maybe deprived of this information which, as stated above, Drake maintains to be honest and correct.

I state clearly that I am making no decision on the accuracy of the information filed by Drake. Had a hearing been held and evidence presented I cannot say how I would have ruled in this matter and may well have been in a position of concurring with my fellow Arbitrators.

However based upon my firm belief of the importance of the information contained in the Central Registration Depository, I cannot concur with this order.

  
John B. Morgan, Esq.

We hereby consent to the form and entry of the within Stipulated Award:

SICHENZIA, ROSS, FRIEDMAN & FERENCE LLP

By: Michael H. Ference  
Michael H. Ference, Esq.  
1065 Avenue of the Americas, 21<sup>st</sup> Floor  
New York, New York 10018

Attorneys for Claimant Romeo Conti

SMITH/CAMPBELL, LLP

By: David Smith  
David Smith, Esq.  
One Whitehall Street  
New York, New York 10004

Attorneys for Respondents Drake &  
Co., Inc. and Paragon Capital  
Markets

**ARBITRATORS' SIGNATURES**

Concurring Arbitrator's Signature

I, Lane Bucklan, do hereby affirm, that I am the individual described herein and who executed this instrument.

Lane Bucklan  
Lane Bucklan, Chairperson

Dissenting Arbitrator's Signature

I, John Morgan, do hereby affirm, that I am the individual described herein and who executed this instrument.

John Morgan  
John Morgan

Concurring Arbitrator's Signature

I, Linda Blakely, do hereby affirm, that I am the individual described herein and who executed this instrument.

Linda Blakely  
Linda Blakely

Date of Service - May 15, 2002

We hereby consent to the form and entry of the within Stipulated Award:

SICHENZIA, ROSS, FRIEDMAN & FERENCE LLP

By: Michael H. Ference  
Michael H. Ference, Esq.  
1065 Avenue of the Americas, 21<sup>st</sup> Floor  
New York, New York 10018

Attorneys for Claimant Romeo Conti

SMITH CAMPBELL, LLP

By: David Smith  
David Smith, Esq.  
One Whitehall Street  
New York, New York 10004

Attorneys for Respondents Drake &  
Co., Inc. and Paragon Capital  
Markets

**ARBITRATORS' SIGNATURES**

Concurring Arbitrator's Signature

I, Lane Bucklan, do hereby affirm, that I am the individual described herein and who executed this instrument.

Lane Bucklan  
Lane Bucklan, Chairperson

Dissenting Arbitrator's Signature

I, John Morgan, do hereby affirm, that I am the individual described herein and who executed this instrument. *Comment ATTACHED*

John Morgan  
John Morgan

Concurring Arbitrator's Signature

I, Linda Blakely, do hereby affirm, that I am the individual described herein and who executed this instrument.

Linda Blakely  
Linda Blakely

Date of Service - May 15, 2002

We hereby consent to the form and entry of the within Stipulated Award:

SICHENZIA, ROSS, FRIEDMAN & FERENCÉ LLP

By: Michael H. Ference  
Michael H. Ference, Esq.  
1065 Avenue of the Americas, 21<sup>st</sup> Floor  
New York, New York 10018

**Attorneys for Claimant Romeo Conti**

SMITH/CAMPBELL, LLP

By: David Smith  
David Smith, Esq.  
One Whitehall Street  
New York, New York 10004

**Attorneys for Respondents Drake &  
Co., Inc. and Paragon Capital  
Markets**

**ARBITRATORS' SIGNATURES**

Concurring Arbitrator's Signature

I, Lane Bucklan, do hereby affirm, that I am the individual described herein and who executed this instrument.

~~Lane Bucklan, Chairperson~~

**Dissenting Arbitrator's Signature**

I, John Morgan, do hereby affirm, that I am the individual described herein and who executed this instrument.

**John Morgan**

Concurring Arbitrator's Signature

I, Linda Blakely, do hereby affirm, that I am the individual described herein and who executed this instrument.

**Linda Blakely**

Date of Service - May 15, 2002