

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Sol Abady and Renee Abady, (Claimants) vs. CIBC Oppenheimer Corp. n/k/a CIBC World Markets Corp. and Christopher Coughlin, (Respondents)

Case Number: 01-02244

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimants, Sol Abady ("S. Abady") and Renee Abady ("R. Abady"), hereinafter collectively referred to as "Claimants": Randy Scott Zelin, Esq., Randy Scott Zelin, P.C., Westbury, NY. Previously represented by: Anthony M. Abraham, Esq., a sole practitioner, New York, NY.

Respondents, CIBC Oppenheimer Corp. n/k/a CIBC World Markets Corp. ("CIBC") and Christopher Coughlin ("Coughlin"), hereinafter collectively referred to as "Respondents": Peter M. Spett, Esq., Counsel and Director, CIBC World Markets Corp., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: April 30, 2001.

Amended Statement of Claim filed on or about: July 31, 2002.

S. Abady signed the Uniform Submission Agreement.

R. Abady signed the Uniform Submission Agreement.

Joint Statement of Answer filed by Respondents on or about: August 17, 2001.

Joint Statement of Answer to Amended Statement of Claim filed by Respondents on or about: September 3, 2002.

CIBC did not sign a Uniform Submission Agreement.

Coughlin did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: misrepresentation as to margin calls; unauthorized trading; churning; excessive commission charges; unsuitability; fraudulent conduct; control person liability; breach of fiduciary duty; failure to supervise; absence of fair dealing; and failure to execute instructions to liquidate account. Claimants' claim involved the Alliance Select Biotech Mutual Fund, as well as other unspecified financial products.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and Amended Statement of Claim and asserted the following defenses: Claimants fail to state a claim upon which relief can be granted; Claimants authorized, consented to, or acquiesced in the execution of each transaction in their account and are therefore equitably estopped from bringing this action; as a result of Claimants' failure to notify CIBC of the alleged acts and omissions of which Claimants now complain, promptly after receipt of telephonic notice, written confirmation, monthly account statements, and other documents evidencing or setting forth the transactions in their account, and in any event promptly after Claimants discovered or should have discovered the alleged acts and omissions, Claimants are barred from recovering from CIBC under the doctrines of ratification, estoppel, waiver, and laches; Claimants' securities fraud claims are barred because their broker did not act with the requisite scienter; and Claimants' claims are barred by the applicable statutes of limitations.

RELIEF REQUESTED

Claimants requested:

- a. Compensatory damages in the amount of \$1,643,000.00;
- b. Punitive damages in the amount of \$250,000.00;
- c. Pre-award and post-award interest at the maximum rate allowed by law from the date of the original investments; and
- d. The costs of forum, attorneys' fees minimally in the sum of \$50,000.00, expert's fees and arbitrator's fees, and all other costs deemed to be reasonable, all in the sum minimally of \$60,000.00.

Respondents requested that Claimants' claims be denied in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimants, the undersigned arbitrators (the "Panel") determined that CIBC and Coughlin have been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without CIBC and Coughlin present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

CIBC and Coughlin did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code 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, 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.
2. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Coughlin's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Coughlin must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. All other requests for relief are hereby denied.

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 = \$ 500.00

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, CIBC Oppenheimer Corp. n/k/a CIBC World Markets Corp. is a party.

Member surcharge	= \$2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$4,500.00

Adjournment Fees

Adjournments requested during these proceedings:

Jan. 14, 15, 16, 21 & 22, 2003, adjournment by Respondents	= \$1,200.00
Jan. 23, 2003, adjournment by Claimant	= WAIVED

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 a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conference: December 11, 2002 1 session	

One (1) Pre-hearing session with Panel x \$1,200.00	= \$1,200.00
Pre-hearing conference: July 17, 2002 1 session	

Six (6) Hearing sessions x \$1,200.00	= \$7,200.00
Hearing Dates: January 28, 2003 2 sessions	
January 29, 2003 2 sessions	
January 30, 2003 2 sessions	

Total Forum Fees	= \$8,850.00
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1. The Panel has assessed \$4,425.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$4,425.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$4,425.00
Total Fees	= \$4,925.00
<u>Less payments</u>	= \$1,700.00
Balance Due NASD Dispute Resolution	= \$3,225.00

2. CIBC is solely liable for:

<u>Member Fees</u>	= \$7,600.00
Total Fees	= \$7,600.00
<u>Less payments</u>	= \$7,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

Adjournment Fee	= \$1,200.00
<u>Forum Fees</u>	= \$4,425.00
Total Fees	= \$5,625.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$5,625.00

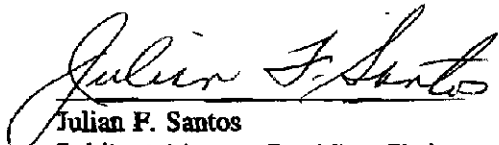
All balances are payable to NASD Dispute Resolution, and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Julian F. Santos	-	Public Arbitrator, Presiding Chair
Arthur J. Kresch	-	Public Arbitrator
Matthew Loguercio	-	Non-Public 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.


Julian F. Santos
Public Arbitrator, Presiding Chair

3/10/03
Signature Date

Arthur J. Kresch
Public Arbitrator

Signature Date

Matthew Loguercio
Non-Public Arbitrator

Signature Date

March 13, 2003
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

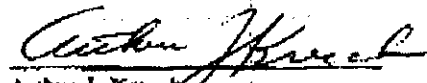
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