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**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Dianna Lynn

Case Number: 02-06900

Name of the Respondent  
CIBC World Markets Corp.

Hearing Site: Boca Raton, FL

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Dianna Lynn ("Lynn"), hereinafter referred to as "Claimant": Curtis Carlson, Esq., Payton & Carlson, P.A., Miami, Florida.

For CIBC World Markets Corp. ("CIBC"), hereinafter referred to as "Respondent": Peter Vaughan, Executive Director, Senior Legal Counsel, CIBC World Markets Corp., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: November 13, 2002.

Claimant signed the Uniform Submission Agreement: October 29, 2002.

Statement of Answer and Partial Motion to Dismiss filed by Respondent on or about: February 12, 2003.

Respondent did not file an executed Uniform Submission Agreement.

Response to Partial Motion to Dismiss filed by Claimant on or about: July 30, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) fraud; 2) unsuitability and mishandling of Claimant's accounts; 3) theft; 4) failure to supervise; 5) negligence; 6) gross negligence; and 7) breach of fiduciary duty. The causes of action relate to the trading of unspecified securities in Claimant's accounts, including trades made on margin.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

**RELIEF REQUESTED**

Claimant requested compensatory damages of \$499,000.00, plus well managed portfolio damages, interest, punitive damages, the costs of this proceeding and such other relief as is

deemed just and proper.

Respondent requested that all claims against it be dismissed in their entirety.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent did not file with NASD Dispute Resolution, a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the undersigned arbitrators (the "Panel") on all issues submitted.

By Order dated August 21, 2003, the Panel denied Respondent's Partial Motion to Dismiss.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

### **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 denied in their entirety.
2. Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are 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 = \$ 300.00

#### **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. Accordingly, Respondent CIBC is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00
Total Member Fees	= \$5,200.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

February 10 through 12, 2004 hearing dates, adjournment requested by Claimant and Respondent. The Panel assessed \$562.50 of the adjournment fee to Claimant and \$562.50 of the adjournment fee to Respondent.

Adjournment of October 20 through 22, 2004 hearing dates. The Panel has assessed \$562.50 of the adjournment fee to Claimant and \$562.50 of the adjournment fee to Respondent.

**Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session.

No three-day cancellation fees were incurred during these proceedings.

**Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were incurred during these proceedings.

**Forum Fees and Assessments**

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

Three (3) Pre-hearing sessions with the Panel @ \$1,125.00	= \$3,375.00
Pre-hearing conferences:	
June 20, 2003	1 session
October 12, 2004	1 session
March 11, 2005	1 session
Seven (7) Hearing sessions with the Panel @ \$1,125.00	= \$7,875.00
Hearing Dates:	
March 8, 2005	2 sessions
March 9, 2005	2 sessions
March 10, 2005	2 sessions
March 30, 2005	1 session
Total Forum Fees	= \$11,250.00

The Panel has assessed \$5,625.00 of the forum fees to Claimant.  
The Panel has assessed \$5,625.00 of the forum fees to Respondent.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$1,125.00
<u>Forum Fees</u>	<u>= \$5,625.00</u>
Total Fees	= \$7,050.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$5,625.00

Respondent is solely liable for:

Member Fees	= \$ 5,200.00
Adjournment Fee	= \$ 1,125.00
<u>Forum Fees</u>	<u>= \$ 5,625.00</u>
Total Fees	= \$11,950.00
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 6,750.00

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

**ARBITRATION PANEL**

Martin Weinstein, Esq.	-	Public Arbitrator, Presiding Chairperson
David P. Slater, Esq.	-	Public Arbitrator
Richard Andrew Cahlin, CPA	-	Non-Public Arbitrator

**Concurring Arbitrator's Signatures**

\_\_\_\_\_  
/s/  
Martin Weinstein, Esq.  
Public Arbitrator, Presiding Chairperson

April 4, 2005  
Signature Date

\_\_\_\_\_  
/s/  
David P. Slater, Esq.  
Public Arbitrator

April 2, 2005  
Signature Date

\_\_\_\_\_  
/s/  
Richard Andrew Cahlin, CPA  
Non-Public Arbitrator

April 1, 2005  
Signature Date

April 4, 2005  
Date of Service (For NASD Dispute Resolution office use only)

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4/4/05  
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Signature Date

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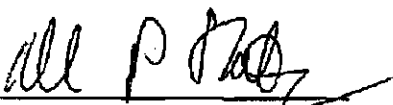
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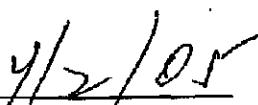
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Public Arbitrator

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*Richard Andrew Cahlin CPA*  
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Richard Andrew Cahlin, CPA  
Non-Public Arbitrator

*4-1-05*  
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