

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Michael Launi
Splendora Launi

Case Number: 03-00178

Names of the Respondents

Daniel S. Deirisio
CIBC World Markets Corporation

Hearing Site: Washington, DC

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimants, Michael Launi and Splendora Launi, hereinafter collectively referred to as "Claimants", were represented by Marvin L. Szymkowicz, Esq., Savit & Szymkowicz, LLP, Bethesda, Maryland.

Respondents, Daniel S. Derisio ("Derisio") and CIBC World Markets Corporation ("CIBC"), hereinafter collectively referred to as "Respondents", were represented by Jane L. Myers, Esq., CIBC, New York, NY.

CASE INFORMATION

Statement of Claim filed on January 8, 2003.

Claimant Michael Launi signed the Uniform Submission Agreement on December 23, 2002.

Claimant Splendora Launi signed the Uniform Submission Agreement on December 23, 2002.

Joint Statement of Answer filed by Respondents on April 2, 2003.

Respondent Derisio signed the Uniform Submission Agreement on June 3, 2003.

Jane L. Myers, Esq. executed the Uniform Submission Agreement on behalf of Respondent CIBC on June 1, 2003.

CASE SUMMARY

Claimants asserted the following causes of action, among others: suitability, excessive trading, breach of fiduciary duty, violations of Rule 10b-5 and Maryland State Securities Law, and *respondeat superior*. The causes of action relate to the purchase and sale of various securities including Aether Systems, Inc., Broadvision, Digex, Inc., Kana Communications, Qlogic Corp., Entrade, Inc., Imagex Com, Inc., DSL Net, Inc., Pliant Systems, Inc., E. Piphany, Inc., Intel Corp., Microstrategy, Inc., H Power Corp., JDS Uniphase Corp., Mechanical Technology, Inc., and Putnam New Opportunities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the

Statement of Claim and asserted the following defenses, among others: the Statement of Claim fails to set forth a claim upon which relief can be granted; assumption of risk; Claimants are barred from any recovery by the doctrines of waiver, ratification, and acquiescence; and, Claimants are estopped by their own conduct from asserting the claims alleged in the Statement of Claim.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$140,000.00
Punitive Damages	\$280,000.00
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified
Lost Income:	amount unspecified

Claimants additionally requested that the Arbitration Panel (the "Panel") grant injunctive relief.

Respondents in their Statement of Answer requested that the claims be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, Claimants amended their claim for actual damages to \$198,960.02 plus the refund of commissions in the amount of \$13,937.02 and withdrew their claim for punitive damages.

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. Respondents Derisio and CIBC are jointly and severally liable to and shall pay to Claimants compensatory damages in the amount of one hundred seventy-one thousand dollars and no cents (\$171,000.00) plus interest at the statutory rate in Maryland for post-judgment interest (10%) on that amount. Interest shall be calculated on a simple basis and shall accrue from June 23, 2004 until the date the Award is paid in full;
2. All claims for attorneys' fees are denied in their entirety;
3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
4. Any and all relief not specifically addressed herein is denied in its entirety.

5. Respondents are hereby enjoined from retaliating in any manner against Claimants because of their having brought and pursued this arbitration proceeding. Retaliation includes, but is not limited to, discussing in any negative manner with any member, guest or employee of the Columbia Country Club, Claimant Michael Launi's services as an employee of such Club or taking any action that can negatively affect Mr. Launi's employment relationship with such Club.

Further, all parties to this case and their counsel are enjoined from speaking or writing about this arbitration, the resulting award, and/or the handling of the investment account that was the subject of this arbitration to or with any person or entity other than immediate family members and such legal, accounting or regulatory professionals as may represent them in circumstances in which such disclosure is necessary for such professional to carry out his or her professional services, including, but not limited to, making any disclosure required by law or regulation and advice related to taxes.

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 firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, CIBC is 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

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 Panel @ \$1,125.00 = \$ 1,125.00
Pre-hearing conference: November 19, 2003 1 session

Six (6) Hearing sessions @ \$ 1,125.00	= \$ 6,750.00
Hearing Dates:	
May 10, 2004	2 sessions
May 11, 2004	2 sessions
May 12, 2004	2 sessions

Total Forum Fees = \$ 7,875.00

The Panel has assessed \$7,875.00 of the forum fees to Respondent CIBC.

FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
<u>Refund Due Claimants</u>	= \$ 1,125.00

2. Respondent CIBC is assessed and shall pay the following fees:

<u>Member Fees</u>	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 7,875.00
<u>Total Fees</u>	= \$13,075.00
<u>Less payments</u>	= \$ 5,950.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 7,125.00

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

ARBITRATION PANEL

Caryl S. Bernstein, Esq.	-	Public Arbitrator, Presiding Chairperson
Barbara B. Franklin, Esq.	-	Public Arbitrator, Panelist
Thomas J. Burns, Jr., MBA	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Caryl S. Bernstein, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Barbara B. Franklin, Esq.
Public Arbitrator, Panelist

Signature Date

Thomas J. Burns, Jr., MBA
Non-Public Arbitrator, Panelist

Signature Date

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

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Barbara B. Franklin, Esq.
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6/8/04
Signature Date

Thomas J. Burns, Jr., MBA
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