

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

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In the Matter of the Arbitration Between:

Victor Chehebar, MD (Claimant) v. CIBC World Markets Corp., Steve Condos, and Chuck Roberts (Respondents)

Case Number: 03-00570

Hearing Site: New York, New York

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

**REPRESENTATION OF PARTIES**

Claimant Victor Chehebar, MD ("Chehebar") hereinafter referred to as "Claimant": David A. Schrader, Esq., Schrader & Schoenberg, LLP, New York, NY. Previously represented by: Sean F. O'Shea, Esq., New York, NY.

Respondents CIBC World Markets Corp. ("CIBC"), Steve Condos ("Condos"), and Chuck Roberts ("Roberts") hereinafter collectively referred to as "Respondents": Lloyd S. Clareman, Esq., Lloyd S. Clareman, P.C., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: January 23, 2003.

Claimant signed the Uniform Submission Agreement: October 10, 2002.

Joint Statement of Answer filed by Respondents on or about: May 16, 2003.

Respondent CIBC signed the Uniform Submission Agreement: May 15, 2003.

Respondent Condos signed the Uniform Submission Agreement: May 15, 2003.

Respondent Roberts signed the Uniform Submission Agreement: May 15, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: fraud; negligent misrepresentation; breach of fiduciary duty; breach of contract; and negligence. The causes of action relate to hedge funds such as Troon, Xanthus, the Balius Fund, and Augusta.

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

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the approximate amount of \$6,000,000.00; punitive damages in the amount of \$10,000,000.00; and attorneys' fees and costs.

Respondents requested that the Panel dismiss Claimant's claims in their entirety; direct the expungement of this complaint from the CRD records of the individual Respondents; and assess the hearing costs against the Claimant.

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

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, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent CIBC is solely liable for and shall pay to Claimant compensatory damages in the amount of \$145,000.00.
2. Respondent CIBC is solely liable for and shall pay to Claimant the sum of \$300.00, to reimburse Claimant for one-half of the filing fee previously paid to NASD Dispute Resolution.
3. Any and all relief not specifically addressed herein, including punitive damages, is 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 = \$600.00

#### **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 persons at the time of the events giving rise to the dispute. Accordingly, CIBC World Markets Corp. is a party.

Member surcharge	= \$3,750.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,500.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

January 14, 21, and 22, 2004, adjournment by Respondents = Waived

**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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00

Pre-hearing conference: June 24, 2004 1 session

One (1) Pre-hearing session with Panel @ \$1,200.00 = \$ 1,200.00

Pre-hearing conference: September 8, 2003 1 session

Twenty-eight (28) Hearing sessions @ \$1,200.00 = \$33,600.00

Hearing Dates: January 15, 2004 2 sessions  
January 16, 2004 2 sessions  
July 26, 2004 2 sessions  
July 27, 2004 2 sessions  
July 28, 2004 2 sessions  
July 29, 2004 2 sessions  
July 30, 2004 2 sessions  
September 14, 2004 2 sessions  
September 23, 2004 2 sessions  
September 28, 2004 2 sessions  
October 28, 2004 2 sessions  
October 29, 2004 2 sessions  
December 21, 2004 2 sessions  
December 22, 2004 2 sessions

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Total Forum Fees = \$35,250.00

1. The Panel has assessed \$17,625.00 of the forum fees against Claimant.
2. The Panel has assessed \$17,625.00 of the forum fees against Respondent CIBC.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee = \$ 600.00

Forum Fees = \$17,625.00

Total Fees = \$18,225.00

Less payments = \$ 1,800.00

Balance Due NASD Dispute Resolution = \$16,425.00

*As stated in the "Award" section above, Respondent CIBC is liable for and shall reimburse Claimant for one-half of the filing fee, or \$300.00.*

2. Respondent CIBC is solely liable for:

Member Fees	= \$10,000.00
<u>Forum Fees</u>	<u>= \$17,625.00</u>
Total Fees	= \$27,625.00
<u>Less payments</u>	<u>= \$10,000.00</u>
Balance Due NASD Dispute Resolution	= \$17,625.00

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

**ARBITRATION PANEL**

Michael E. Silverman, Esq.	-	Public Arbitrator, Presiding Chairperson
John J. Schlager	-	Public Arbitrator
Stuart Rothenstein	-	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.



Michael E. Silverman, Esq.  
Public Arbitrator, Presiding Chairperson

12-28-04  
Signature Date

\_\_\_\_\_  
John J. Schlager  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Stuart Rothenstein  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

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

**ARBITRATION PANEL**

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John J. Schlager	-	Public Arbitrator
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**Concurring Arbitrators' Signatures**

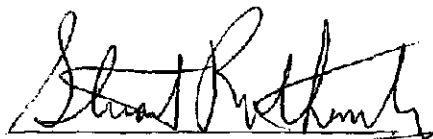
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Signature Date

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Stuart Rothenstein  
Non-Public Arbitrator

12/21/04  
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