

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

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In the Matter of the Arbitration Between:

Rita A. Spiritelli (Claimant) v. CIBC World Markets Corp. and Bruce M. Tanis (Respondents)

Case Number: 03-06361

Hearing Site: Albany, New York

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

**REPRESENTATION OF PARTIES**

Claimant Rita A. Spiritelli ("Spiritelli") hereinafter referred to as "Claimant" appeared *pro se*.

Respondents CIBC World Markets Corp. ("CIBC") and Bruce M. Tanis ("Tanis") hereinafter collectively referred to as "Respondents": Jane L. Myers, Esq., CIBC World Markets Corp., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: August 26, 2003.

Response to Motion to Dismiss filed on or about: January 7, 2004.

Claimant signed the Uniform Submission Agreement: August 25, 2003.

Joint Statement of Answer and Motion to Dismiss filed by Respondents on or about: December 3, 2003.

Respondent CIBC signed the Uniform Submission Agreement: December 3, 2003.

Respondent Tanis did not sign the Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: negligence; failure to supervise; breach of fiduciary duty; misrepresentations; and suitability. The causes of action relate to common stock, mutual funds, and unit investment trusts.

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

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$48,934.27, plus interest at the rate of 5% per annum from January 23, 1999; and costs.

Respondents requested that Claimant's Statement of Claim be dismissed, with prejudice, in its entirety.

**OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Tanis did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, and appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

At the hearing in this matter, Respondents filed a Motion to Dismiss. The Panel granted the Motion and dismissed this matter with prejudice.

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, and 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 dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Bruce Tanis 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 Bruce Tanis must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. Any and all relief not specifically addressed herein 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 = Waived

**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, CIBC World Markets Corp. is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

October 19-20, 2004, adjournment by CIBC = \$ 600.00

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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: August 24, 2004 1 session

One (1) Pre-hearing session with Panel @ \$600.00 = \$ 600.00  
Pre-hearing conference: April 16, 2004 1 session

Three (3) Hearing sessions @ \$600.00 = \$1,800.00  
Hearing Dates: December 13, 2004 2 sessions  
December 14, 2004 1 sessions

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Total Forum Fees = \$2,850.00

1. The Panel has assessed \$2,850.00 of the forum fees against Claimant.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ Waived
<u>Forum Fees</u>	= \$2,850.00
Total Fees	= \$2,850.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$2,850.00

2. Respondent CIBC is solely liable for:

Member Fees	= \$2,625.00
<u>Adjournment Fee</u>	= \$ 600.00
Total Fees	= \$3,225.00
<u>Less payments</u>	= \$2,625.00
Balance Due NASD Dispute Resolution	= \$ 600.00

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

**ARBITRATION PANEL**

Elizabeth K. Norsworthy, Esq.	-	Public Arbitrator, Presiding Chairperson
James T. Meyer, Esq.	-	Public Arbitrator
Jacqueline W. Marshall	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7307 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
Elizabeth K. Norsworthy, Esq.  
Public Arbitrator, Presiding Chairperson

December 16, 2004  
Signature Date

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James T. Meyer, Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Jacqueline W. Marshall  
Non-Public Arbitrator

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

December 20, 2004

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)

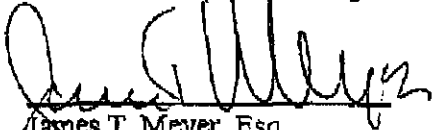
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James T. Meyer, Esq.	-	Public Arbitrator
Jacqueline W. Marshall	-	Non-Public Arbitrator

**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.

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Elizabeth K. Norsworthy, Esq.  
Public Arbitrator, Presiding Chairperson

  
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James T. Meyer, Esq.  
Public Arbitrator

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

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

\_\_\_\_\_  
Jacqueline W. Marshall  
Non-Public Arbitrator

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Signature Date

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James T. Meyer, Esq.	-	Public Arbitrator
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**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.

Elizabeth K. Norrworthy, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

James T. Meyer, Esq.  
Public Arbitrator

Signature Date

Jacqueline W. Marshall  
Jacqueline W. Marshall  
Non-Public Arbitrator

12-20-04  
Signature Date

December 20, 2004

Date of Service (For NASD Dispute Resolution use only)