

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Milano Investments, Ltd.

and

Case Number: 04-02955
Hearing Site: Houston, Texas

Name of Respondent

CIBC World Markets Corp.

NATURE OF DISPUTE

Customer v. Member Firm

REPRESENTATION OF PARTIES

Milano Investments, Ltd. ("**Claimant**") was represented by Robert E. Lapin, Esq., Lapin & Landa, LLP, Houston, Texas.

CIBC World Markets Corp. ("**CIBC**") was represented by Andrew R. Harvin, Esq., Doyle, Restrepo, Harvin & Robbins, LLP, Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about April 21, 2004. The Submission Agreement of Claimant, Milano Investments, Ltd., was signed on or about March 17, 2004.

The Statement of Answer was filed by Respondent, CIBC World Markets Corp., on or about June 22, 2004. The Submission Agreement of Respondent, CIBC World Markets Corp., was signed on or about June 22, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: failure to supervise, breach of fiduciary duty, misrepresentation, omission of facts and suitability. The causes of action relate to the recommendation and purchase of Oak Associates. Claimant alleged that CIBC was negligent, and their negligence proximately caused Claimant's damages. Also, Claimant alleged that CIBC omitted factual information, which would otherwise have enabled Claimant to make a knowledgeable decision.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim failed to state a claim upon which relief can be granted; Claimant cannot meet the burden of proof of proving "loss causation" as required under the law; the damages alleged by Claimant are incorrect, and they were not caused by wrongful acts attributable to CIBC; no cause of action for breach of fiduciary duty, or good faith and fair dealing, exists in the absence of any discretionary investment activity by CIBC; and Claimant's claims are barred by the doctrines of estoppel, ratification and waiver

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$500,000.00
Punitive/Exemplary Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondent, CIBC World Markets Corp., is liable for and shall pay to Claimant, Milano Investments, Ltd., the sum of \$98,500.00 in compensatory damages;
- 2.) Respondent, CIBC World Markets Corp., is liable for and shall pay to Claimant, Milano Investments, Ltd., interest at the rate of 10% per annum from and including 30 days after the Award is served through and

including the date the Award is paid in full pursuant to Texas statute;

- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is CIBC World Markets Corp.

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

Forum Fees and Assessments

The Arbitration 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: February 15, 2005 1 session	

One (1) Pre-hearing session with Panel x \$1,125.00	= \$ 1,125.00
Pre-hearing conference: Date 1 session	

Six (6) Hearing sessions x \$1,125.00	= \$ 6,750.00
Hearing Dates: March 2, 2005 2 sessions	
March 3, 2005 2 sessions	
March 4, 2005 2 sessions	

Total Forum Fees	= \$ 8,325.00
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The Arbitration Panel has assessed \$8,325.00 of the forum fees to CIBC World Markets Corp.

Fee Summary

Claimant, Milano Investments, Ltd., is liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,575.00
<u>Refund Due to Claimant</u>	= \$ 1,275.00

Respondent, CIBC World Markets Corp., is liable for:

<u>Member Fees</u>	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 8,325.00
<u>Total Fees</u>	= \$13,525.00
<u>Less payments</u>	= \$ 5,200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 8,325.00

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

ARBITRATION PANEL

Donald K. Eckhardt, Esq. - Public Arbitrator, Presiding Chair
James P. Hoefling - Public Arbitrator
William J. Kirkpatrick, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Donald K. Eckhardt, Esq.
Donald K. Eckhardt, Esq.
Public Arbitrator, Presiding Chair

March 8, 2005
Signature Date

/s/ James P. Hoefling
James P. Hoefling
Public Arbitrator

March 10, 2005
Signature Date

/s/ William J. Kirkpatrick, Jr.
William J. Kirkpatrick, Jr.
Non-Public Arbitrator

March 8, 2005
Signature Date

March 8, 2005
Date of Service (For NASD office use only)

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Public Arbitrator, Presiding Chair

3/8/05
Signature Date

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Signature Date

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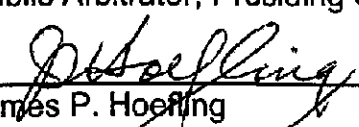
James P. Hoefling - Public Arbitrator

William J. Kirkpatrick, Jr. - Non-Public Arbitrator

Concurring Arbitrators:

Donald K. Eckhardt, Esq.
Public Arbitrator, Presiding Chair

Signature Date



James P. Hoefling
Public Arbitrator

3-10-05

Signature Date

William J. Kirkpatrick, Jr.
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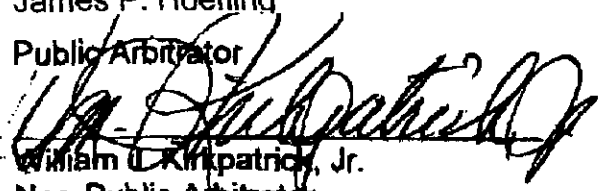
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