

**Stipulated Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Elisa Brizuela,  
Claimant,

Case Number: 05-04109

Hearing Location: Chicago, Illinois

v.

CMG Institutional Trading, L.L.C.,  
Respondent.

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**NATURE OF THE DISPUTE:** Associated Person v. Member

**REPRESENTATION OF PARTIES**

Elisa Brizuela ("Brizuela"), hereinafter referred to as "Claimant" was represented by James J. Eccleston and Ronald M. Amato, Shaheen, Novoselsky, Staat, Filipowski & Eccleston, P.C., 20 North Wacker Drive, Suite 2900, Chicago Illinois 60606.

CMG Institutional Trading, L.L.C. ("CMGI"), hereinafter referred to as Respondent was represented by Nichole C. Patton, Patton & Word, L.L.C., 123 North Wacker Drive, Suite 810, Chicago, Illinois 60606.

**CASE INFORMATION**

Statement of Claim filed on or about August 8, 2005. Brizuela signed the Uniform Submission Agreement on July 29, 2005.

Answer filed by CMGI on or about November 7, 2005. CMGI signed the Uniform Submission Agreement on November 7, 2005.

Joint Motion for a Stipulated Award filed on May 4, 2006.

**CASE SUMMARY**

Brizuela asserted the following causes of action: Form U-5 Defamation and Negligence. Brizuela's Statement of Claim contends that her employment with CMGI was terminated on or about January 12, 2005. Brizuela's Statement of Claim further contends that CMGI submitted a Form U-5 to the NASD in March 2005 which stated falsely that Brizuela had directly disobeyed instructions from her supervisor and abandoned her job after discovery that she broke SEC Rule/Code Section 17(A) of the Securities Exchange Act of 1934, Rule 17A-4 under the exchange act, and NASD Rule 3110, and that this defamatory information is reflected on the Central Registration Depository ("CRD").

Unless specifically admitted in their Answer, CMGI denied the allegations made in the Statement of Claim and contends that Brizuela deleted e-mail messages in which she had

sabotaged the firm, searched for a job on company time, was not a productive employee, and abandoned her job on or about January 12, 2005.

### **RELIEF REQUESTED**

Brizuela requests that the Arbitration Panel enter an Award directing the NASD to expunge the information on the CRD record that states that she was discharged involuntarily by CMGI for directly disobeying instructions from her supervisor, abandoning her job after discovery that she broke SEC Rule/Code Section 17A of the Securities Exchange Act of 1934, Rule 17A-4 under the exchange act, and NASD Rule 3110, and that after this incident she never returned or responded to e-mail inquiries. Brizuela requests that the NASD Correct her CRD record by stating that she was terminated by CMGI without cause. Brizuela also requests compensatory damages in an amount to be later specified but not less than \$100,000.

CMGI requests that the Arbitration Panel dismiss Brizuela's causes of action.

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

Prior to the hearing, the parties fully and finally settled all claims by and between them with each party denying all liability to the other. The parties submit this Stipulated Award to the Arbitration Panel for its consideration and request that it be entered.

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

### **AWARD**

After considering the pleadings and the stipulation of the parties, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of Elisa Brizuela's registration record maintained by the Central Registration Depository ("CRD") which states that Brizuela was discharged involuntarily by CMGI in March 2005 for directly disobeying instructions from her supervisor and abandoning her job after discovery that she broke SEC Rule/Code 17(A) of the Securities Exchange Act of 1934, Rule 17A-4 under the exchange act, and NASD Rule 3110, and that she never returned or responded to e-mail inquiries. Instead, the Panel recommends that the language shall state that Brizuela resigned voluntarily from CMGI in mid-January 2005.
2. The expungement relief is granted based on the defamatory nature of the information in the CRD system, however, there has been no finding that the elements required to satisfy a claim for defamation under governing law have been met. The expungement relief is granted based on the mutual agreement of the parties to change the language on Brizuela's Form U-5.

3. The NASD forum fees and assessments, if any, and all of the costs and expenses, including attorneys' fees, shall be borne by the respective parties.
4. Any and all relief not specifically addressed herein is denied in its entirety.

### **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 = \$225.00

#### **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, CMG Institutional Trading, LLC is a party to this proceeding.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

#### **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 arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session @ \$750.00	= \$ 750.00
Pre-hearing Date: November 30, 2005 1 session	
Total Forum Fees	= \$ 750.00

1. The Panel has assessed 50% of the total forum fees in the amount of \$375.00 solely to Claimant Elisa Brizuela.
2. The Panel has assessed 50% of the total forum fees in the amount of \$375.00 solely to Respondent CMG Institutional Trading, LLC.

#### **Fee Summary**

1. Claimant, Elisa Brizuela, is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 600.00
Less payments	= \$ 975.00
Refund Due from NASD Dispute Resolution	= \$ 375.00

## 2. Respondent, CMG Institutional Trading, LLC, is solely liable for:

Member Fees	= \$3,550.00
Forum Fees	= \$ 375.00
Total Fees	= \$3,925.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 375.00

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

**ARBITRATION PANEL**

James P. O'Donnell	-	Public Arbitrator, Presiding Chairperson
Alan S. Farnell	-	Public Arbitrator, Panelist
Howard B. Silverman	-	Non-Public Arbitrator, Panelist

**Concurring Arbitrators' Signatures**/s/ James P. O'Donnell

James P. O'Donnell

Public Arbitrator, Presiding Chairperson

5/23/06

Signature Date

/s/ Alan S. Farnell

Alan S. Farnell

Public Arbitrator, Panelist

5/22/06

Signature Date

/s/ Howard B. Silverman

Howard B. Silverman

Non-Public Arbitrator, Panelist

5/22/06

Signature Date

5/24/06

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

2. Respondent, CMG Institutional Trading, LLC, is solely liable for:

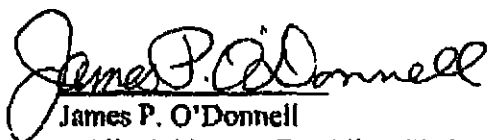
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James P. O'Donnell

Public Arbitrator, Presiding Chairperson

5/23/06  
Signature Date

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Alan S. Farnell  
Public Arbitrator, Panelist

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Signature Date

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NASD Dispute Resolution  
Arbitration No. 05-04109  
Stipulated Award Page 4

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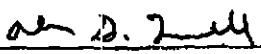
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Public Arbitrator, Presiding Chairperson

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Signature Date

  
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Alan S. Farnell  
Public Arbitrator, Panelist

5/21/06  
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Arbitration No. 05-04109  
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