

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Paul J. Witten

Case No. 99-00888

Names of Respondents

Daniel Martin Ciez
VTR Capital, Inc.

REPRESENTATION OF PARTIES

For Paul J. Witten ("Witten"), hereinafter referred to as "Claimant": Eric A. Lanigan, Esq., Winter Park, Florida.

For Daniel Martin Ciez ("Ciez"): Ruthann G. Niosi, Esq. of the Law Offices of Ruthann G. Niosi, Esq., P.C., New York, New York.

For VTR Capital, Inc. ("VTR"): Ruthann G. Niosi, Esq. of the Law Offices of Ruthann G. Niosi, Esq., P.C., New York, New York until her withdrawal as counsel on or about November 3, 1999. Thereafter, Respondent VTR did not appear.

CASE INFORMATION

Statement of Claim filed on or about: March 1, 1999.

Claimant signed the Uniform Submission Agreement: February 25, 1999.

Statement of Answer filed by Respondents on or about: June 16, 1999.

Respondents did not file executed Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the following: This is a claim for damages arising out of a breach of fiduciary duty premised upon the recommendation of unsuitable investments, the active misrepresentation of known facts, and the intentional manipulation of the market by Respondents. The causes of action relate to Claimant's investments in certain initial public offerings and thinly traded, highly speculative stocks, to wit: Interiors, Inc., Perry's Majestic Beer, Bev-Tyme Bev. Co., Decor Group, Superior Supplements, Inc. and Kid's Stuff, Inc.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Respondents conducted themselves in accordance with and in conformity with all applicable rules, regulations, industry standards and practices; the action appears to be a "hindsight" dissatisfaction with the market and with a selected investment strategy; Claimant authorized and directed the execution of all transactions in his securities account; Claimant had full knowledge of the risks attendant to his trading activity; and, Claimant is not entitled to an award of punitive damages and/or attorneys' fees as a matter of law.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$120,000.00, punitive damages in the amount of \$240,000.00, and all costs and expenses incurred in pursuing this claim, including, without limitation, expert witness and attorneys' fees.

Respondents requested that the claims against them be dismissed in their entirety; that should the panel find against either of the Respondents, the Award be specifically apportioned among the Respondents; and, that the costs of the hearing not be held against Respondents.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent VTR did not attend the evidentiary hearing in this matter. Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent VTR has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD-DR Code of Arbitration Procedure (the "Code").

Respondents did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

The party present at the hearing agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

At the commencement of the evidentiary hearing on October 16, 2000, Claimant informed the arbitration panel that he had entered into a settlement agreement with Respondent Ciez.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims against Respondent VTR are denied.

Claimant's request for punitive damages is denied.

Respondent VTR is liable and shall pay to Claimant the sum of \$200.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution, Inc.

All other requests for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$200.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$600.00
Hearing process fee	= \$2,500.00

Adjournment Fees

Adjournments requested during these proceedings:

There were no adjournments requested during these proceedings.

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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:

Two Pre-hearing sessions with Panel x \$750.00	= \$1,500.00
Pre-hearing conference: February 8, 2000	1 session
May 1, 2000	1 session
One Hearing session x \$750.00	= \$750.00
Hearing Date: <u>October 16, 2000</u>	<u>1 session</u>
Total Forum Fees	= \$2,250.00

The Panel has assessed the total forum fees of \$2,250.00 to Respondent VTR.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$200.00
Total Fees	= \$200.00
<u>Less payments</u>	<u>= \$200.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$0.00

Respondent VTR be and hereby is solely liable for:

Member Fees	= \$4,600.00
Forum Fees	= \$2,250.00
Total Fees	= \$6,850.00
<u>Less payments</u>	<u>= \$0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$6,850.00

All balances are due and payable to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

_____/s/_____
Jack W. Windt
Public Arbitrator, Presiding Chair

Signature Date

_____/s/_____
Don Muyskens, Esq.
Public Arbitrator

Signature Date

_____/s/_____
Michael D. Hamilton
Public Arbitrator

Signature Date

November 6, 2000

Date of Service (For NASD-DR office use only)

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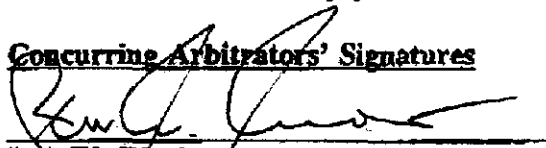
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Concurring Arbitrators' Signatures



Jack W. Windt
Public Arbitrator, Presiding Chair

10/19/00

Signature Date

Don Muyskens, Esq.
Public Arbitrator

Signature Date

Michael D. Hamilton
Public Arbitrator

Signature Date

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Concurring Arbitrators' Signatures

Jack W. Windt
Public Arbitrator, Presiding Chair

Signature Date

Don Muyskens, Esq.
Don Muyskens, Esq.
Public Arbitrator

October 22, 2000
Signature Date

Michael D. Hamilton
Public Arbitrator

Signature Date

Date of Service (For NASD-DR office use only)

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Jack W. Windt
Public Arbitrator, Presiding Chair

Signature Date

Don Muyskens, Esq.
Public Arbitrator

Signature Date



Michael D. Hamilton
Public Arbitrator



Signature Date

Date of Service (For NASD-DR office use only)