

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

The Estate of Harold Slote, Claimant v. Drake Capital Securities, Inc., Gruntal & Co., L.L.C., Laidlaw Equities, Inc., Benjamin Lupu, Robert Delaplain, John A. Tommasini, Paul Bagley, Joseph Di Lillo, John Mazza, Sally Case, and Sandra Ison, Respondents

Case Number: 99-01774

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant:	William S. Bonnheim, Esq. Anderholt, Bonnheim & Casden LLP Indian Wells, California
For Respondent Drake Capital Securities, Inc.:	David Smith, Esq. Smith Campbell & Paduano New York, New York
For Respondent Gruntal & Co., L.L.C.:	Charles W. Gerber, Esq. Gruntal & Co., L.L.C. New York, New York
For Respondents Laidlaw Equities, Inc., Robert Delaplain, John A. Tommasini and Paul Bagley:	Marc S. Gottlieb, Esq. Law Office of Marc S. Gottlieb New York, New York
For Respondent Benjamin Lupu:	In Propria Persona
For Respondent Joseph Di Lillo:	In Propria Persona
For Respondent John Mazza:	In Propria Persona
For Respondent Sally Case:	David H.S. Commins, Esq. Law Office of David Commins San Francisco, California
For Respondent Sandra Ison:	In Propria Persona

CASE INFORMATION

Statement of Claim filed: April 13, 1999

First Amended Statement of Claim filed: June 8, 1999

Second Amended Statement of Claim filed: August 12, 1999

Claimant's Uniform Submission Agreement signed: April 13, 1999

Joint Statement of Answer filed by Respondents Drake Capital Securities, Inc. and Benjamin Lupu: July 8, 1999

Statement of Answer filed by Respondent Laidlaw Equities, Inc.: July 2, 1999

Joint Statement of Answer to Second Amended Statement of Claim filed by Respondents Drake Capital Securities, Inc., Benjamin Lupu, Joseph DiLillo, John Mazza, Sally Case, and Sandra Ison: September 23, 1999

Joint Statement of Answer to Second Amended Statement of Claim filed by Respondents Laidlaw Equities, Inc., Roger Delaplain, John A. Tommasini, and Paul Bagley: September 29, 1999

Respondent Drake Capital Securities, Inc.'s Uniform Submission Agreement signed: July 7, 1999

Respondent Laidlaw Equities, Inc.'s Uniform Submission Agreement signed: June 18, 1999

Respondent John A. Tommasini's Uniform Submission Agreement signed: September 8, 1999

CASE SUMMARY

Claimant's Statement of Claim, First Amended Statement of Claim, and Second Amended Statement of Claim alleged unsuitability, breach of fiduciary duty, failure to supervise, misrepresentation, fraud, violation of federal and state securities laws, and elder abuse, involving unspecified securities.

Respondents Drake Capital Securities, Inc., Laidlaw Equities, Inc., Benjamin Lupu, Robert Delaplain, John A. Tommasini, Paul Bagley, Joseph Di Lillo, John Mazza, Sally Case, and Sandra Ison each denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant's Statement of Claim and First Amended Statement of Claim requested \$92,171.26 in actual damages, unspecified punitive damages, pre- and post judgment interest, and costs, including attorney's fees.

Claimant's Second Amended Statement of Claim requested \$94,816.00 in actual damages, unspecified punitive damages, pre- and post judgment interest, and costs, including attorney's fees.

Respondents Drake Capital Securities, Inc., Laidlaw Equities, Inc., Benjamin Lupu, Robert Delaplain, John A. Tommasini, Paul Bagley, Joseph Di Lillo, John Mazza, Sally Case, and Sandra Ison each requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Benjamin Lupu, Robert Delaplain, Paul Bagley, Joseph Di Lillo, John Mazza, Sally Case, and Sandra Ison did not file with the NASD Dispute Resolution a properly executed submission agreement 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.

On or about October 18, 1999, Claimant dismissed without prejudice Respondent Gruntal & Co., L.L.C.

Before the hearing, Respondents Sandra K. Ison, Joseph Di Lillo, Sally Case, John Mazza, Drake Capital Securities, Inc., and Benjamin Lupu each brought motions to dismiss. On or about July 30, 2002, the Panel granted Respondent Sandra K. Ison's motion to dismiss, and dismissed without prejudice Respondents Joseph Di Lillo, Sally Case, and John Mazza. The Panel denied Respondents Drake Capital Securities, Inc. and Benjamin Lupu's respective motions to dismiss.

On or about August 23, 2002, Claimant dismissed with prejudice Respondent Drake Capital Securities, Inc.

At the hearing, Respondent Laidlaw Equities, Inc. brought a motion to dismiss all of Claimant's claims except unsuitability. Claimant did not oppose this motion, and the Panel granted the motion.

At the hearing, Respondent Laidlaw Equities, Inc. also brought a motion to dismiss. Claimant did not oppose this motion, and the Panel granted the motion.

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety.
2. The parties shall bear their respective costs, including attorney's fees.
3. All other relief not expressly granted is denied.
4. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Benjamin Lupu's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Benjamin Lupu must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 225.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Drake Capital Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,000.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 1,500.00</u>
Total Member Fees	= \$ 3,100.00

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Gruntal & Co., L.L.C. is a party and the following fees are assessed:

<u>Member Surcharge</u>	= \$ 1,000.00
Total Member Fees	= \$ 1,000.00

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Laidlaw Equities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,000.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 1,500.00</u>
Total Member Fees	= \$ 3,100.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

3 Pre-hearing conference sessions with the Panel @ \$750.00/session	= \$ 2,250.00
Pre-hearing conferences:	
June 26, 2000	1 session
September 18, 2000	1 session
January 15, 2002	1 session
4 Hearing sessions @ \$750.00/session	= \$ 3,000.00
Hearings:	
September 18, 2002	2 sessions
September 19, 2002	2 sessions
Total Forum Fees	= \$ 5,250.00

The Panel assessed \$ 5,250.00 of the forum fees to Claimant.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	= \$ 5,250.00
Total Fees	= \$ 5,475.00
<u>Less payments</u>	= \$(975.00)
Balance Due NASD Dispute Resolution	= \$ 4,500.00

2. Respondent Drake Capital Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 3,100.00
<u>Less payments</u>	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 3,100.00

3. Respondent Gruntal & Co., L.L.C. is charged with the following fees and costs:

Member Fees	= \$ 1,000.00
<u>Less payments</u>	= \$(1,000.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondent Laidlaw Equities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 3,100.00
<u>Less payments</u>	= \$(1,892.00)
Balance Due NASD Dispute Resolution	= \$ 1,208.00

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

ARBITRATION PANEL

Richard J. Rosenthal	-	Public Arbitrator, Presiding Chair
William J. Adams, Esq.	-	Non-Public Arbitrator
Arnold Packer	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Richard J. Rosenthal
Chair, Public Arbitrator

Signature Date

William J. Adams, Esq.
Public Arbitrator

Signature Date

Arnold Packer
Non-Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

Richard J. Rosenthal	-	Public Arbitrator, Presiding Chair
William J. Adams, Esq.	-	Non-Public Arbitrator
Arnold Packer	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Richard J. Rosenthal
Chair, Public Arbitrator

3 Oct 02
Signature Date

William J. Adams, Esq.
Public Arbitrator

Signature Date

Arnold Packer
Non-Public Arbitrator

Signature Date

10/4/02
Date of Service

NAED Dispute Resolution
Arbitration No. 99-01774
Award Page 7 of 7

ARBITRATION PANEL

Richard J. Rosenthal	-	Public Arbitrator, Presiding Chair
William J. Adams, Esq.	-	Non-Public Arbitrator
Arnold Packer	-	Non-Public Arbitrator

Consenting Arbitrators' Signatures

Richard J. Rosenthal
Chair, Public Arbitrator

Signature Date

William J. Adams, Esq.
Public Arbitrator

Signature Date



Arnold Packer
Non-Public Arbitrator

10/01/02

Signature Date

10/4/02

Signature Date