

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

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In the Matter of the Arbitration Between:

John Talerico and John Talerico IRA (Claimants) v. Salomon Smith Barney, Inc. and  
George Mulvey (Respondents)

Case Number: 02-05008

Hearing Site: New York, New York

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

**REPRESENTATION OF PARTIES**

Claimants, John Talerico ("J. Talerico") and John Talerico IRA ("J. Talerico IRA"), hereinafter collectively referred to as "Claimants": Richard W. Vallario, Esq., Nutley, NJ.

Respondents, Salomon Smith Barney, Inc. ("Salomon") and George Mulvey ("Mulvey"), hereinafter collectively referred to as "Respondents": Linda R. Alpert, Esq., Salomon Smith Barney, Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: August 21, 2002.

John Talerico signed the Uniform Submission Agreement: August 14, 2002.

Joint Statement of Answer filed by Respondents on or about: November 18, 2002.

Salomon signed the Uniform Submission Agreement: November 18, 2002.

Mulvey signed the Uniform Submission Agreement: October 14, 2002.

**CASE SUMMARY**

Claimants asserted the following causes of action: suitability; misrepresentations; fraud; mismanagement of his account; and failure to supervise. Claimant's claims involved unspecified types of securities.

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

**RELIEF REQUESTED**

Claimants requested an award against the Respondents for the sum of \$149,333.00, plus punitive damages in the amount of \$149,333.00, attorneys' fees and cost of this

proceeding.

Respondents requested that the Statement of Claim be dismissed, that the broker's registration records be expunged, and that all costs be assessed against Claimant.

### **OTHER ISSUES CONSIDERED AND 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.

### **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. Claimants' claims are hereby dismissed in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent George Mulvey's 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 George Mulvey must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.

### **FEEES**

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
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Salomon Smith Barney, Inc. is a party.

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

**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 Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: March 13, 2003 1 session	
Four (4) Hearing sessions @ \$1,125.00	= \$4,500.00
Hearing Dates: October 8, 2003 2 sessions	
October 9, 2003 2 sessions	
<b>Total Forum Fees</b>	<b>= \$5,625.00</b>

1. The Panel has assessed \$1,406.25 of the forum fees against Claimants.
2. The Panel has assessed \$4,218.75 of the forum fees against Salomon.

**Fee Summary**

1. Claimants are jointly and severally liable for:	
Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$1,406.25</u>
Total Fees	= \$1,706.25
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 281.25
2. Salomon is solely liable for:	
Member Fees	= \$5,200.00
<u>Forum Fees</u>	<u>= \$4,218.75</u>
Total Fees	= \$9,418.75
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$4,218.75

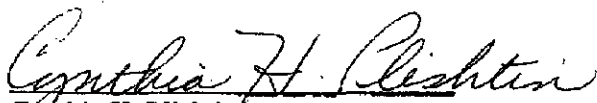
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.
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**ARBITRATION PANEL**

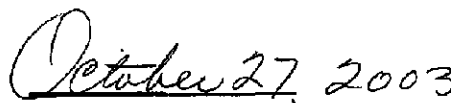
Cynthia H. Plishtin	-	Public Arbitrator, Presiding Chair
Jimmy H. C. Wang	-	Public Arbitrator
Robert A. Cohen	-	Non-Public Arbitrator

**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.



Cynthia H. Plishtin  
Public Arbitrator, Presiding Chairperson

  
Signature Date

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Jimmy H. C. Wang  
Public Arbitrator

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

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Robert A. Cohen  
Non-Public Arbitrator

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Signature Date

November 4, 2003  
Date of Service (For NASD Dispute Resolution use only)

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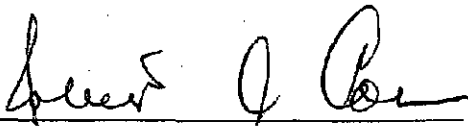
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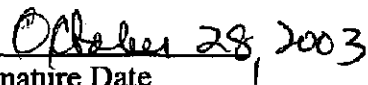
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