

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimants

Alan A. Wanderer and Allergy & Asthma
Consultants of the Rockies, P.C.

v.

02-05070
Denver, Colorado

Respondents

Citigroup Capital Markets, Inc. f/k/a
Salomon Smith Barney Inc. and Craig G. Zeller

REPRESENTATION OF PARTIES

Alan A. Wanderer and Allergy & Asthma Consultants of the Rockies, P.C. ("**Claimants**") appeared pro se.

Citigroup Capital Markets, Inc. f/k/a Salomon Smith Barney Inc. ("**Citigroup**") and Craig G. Zeller, ("**Zeller**") were represented by Ann Parry, Esq., of Citigroup Capital Markets, Inc. f/k/a Salomon Smith Barney Inc., New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about August 28, 2002. Submission Agreements of Claimants Alan A. Wanderer and Allergy & Asthma Consultants of the Rockies, P.C. were signed on or about September 6, 2002.

A Joint Statement of Answer was filed by Respondents Citigroup Capital Markets, Inc. f/k/a Salomon Smith Barney Inc. and Craig G. Zeller on or about September 27, 2002. No Submission Agreement was filed on behalf of Respondent Citigroup Capital Markets, Inc. f/k/a Salomon Smith Barney Inc. No Submission Agreement was filed by Respondent Craig G. Zeller.

Claimants filed a Motion for Leave to Amend the Statement of Claim on or about March 29, 2003. Respondents did not file a response in opposition to Claimants' Amended Statement of Claim.

CASE SUMMARY

Claimants asserted the following causes of action: misrepresentation; omission of facts; breach of fiduciary duty; and negligence. The causes of action related to the purchase of a Revlon Worldwide Parent Corp. holding company bond. Claimants alleged that Respondents did not disclose that they

were purchasing a holding company bond and never explained the difference between a holding company bond and an operating company bond.

Respondents denied the allegations set forth in the Statement of Claim and asserted affirmative defenses including the following: Claimants, either expressly and/or by conduct, approved, authorized, participated in, and ratified the acts and transactions complained of and upon which recovery is sought and are accordingly estopped or otherwise precluded from recovery herein under the doctrines of waiver, estoppel, and ratification; Claimants' Statement of Claim fails to state a claim upon which relief may be granted; and Claimants' alleged losses were proximately caused by their own acts or omissions, not by any wrongdoing on the part of the Respondents.

Claimants, in their Amended Statement of Claim, asserted no new causes for action but asked for the Panel to reimburse them for any legal or filing costs related to this claim, in addition to their actual losses.

RELIEF REQUESTED

Claimants requested an award in the amount of \$25,000 to include interest not paid on the subject bond, plus all legal fees and filing costs associated with this arbitration claim.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondents Citigroup Capital Markets, Inc. f/k/a Salomon Smith Barney Inc. and Craig G. Zeller did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of NASD Code of Arbitration Procedure (the "Code") and having answered the claim, are bound by the determination of the arbitration panel on all issues submitted.

On or about March 10, 2003, NASD Dispute Resolution received a stipulation from the parties to waive the arbitration hearing and have the determination of this matter based upon the written submissions. On or about June 13, 2003, Chairman McConnell agreed to allow each party until June 27, 2003, to submit further written submissions for consideration, pursuant to Rule 10302 of the Code of Arbitration. The chairperson deferred ruling on Claimants' Motion For Leave to Amend Statement of Claim until reviewing the final submissions and such Motion is hereby granted.

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 originals remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Citigroup Capital Markets, Inc. f/k/a Salomon Smith Barney Inc., is liable for and shall pay to Claimants Alan A. Wanderer and Allergy & Asthma Consultants of the Rockies, P.C., the sum of Six Hundred and Sixty Dollars and No Cents (\$660.00) as compensatory damages.
 2. Claimants' claims, each and all, against Respondent Craig G. Zeller are denied and dismissed in their entirety.
 3. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
-
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys' fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 125

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 Citigroup Capital Markets, Inc. f/k/a Salomon Smith Barney Inc.

Member surcharge = \$ 400

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 arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One Pre-hearing sessions with a single arbitrator x \$450 = \$ 450

Pre-hearing conference: 01/29/2003 1 session

Total Forum Fees = \$ 450

The Arbitration Panel has assessed \$ 225 of the forum fees to Alan A. Wanderer and Allergy & Asthma Consultants of the Rockies, P.C.

The Arbitration Panel has assessed \$ 225 of the forum fees to Citigroup Capital Markets, Inc. f/k/a Salomon Smith Barney Inc.

Fee Summary

Claimants, Alan A. Wanderer and Allergy & Asthma Consultants of the Rockies, P.C., are jointly and severally liable for:

Initial Filing Fee	= \$ 125
<u>Forum Fees</u>	= \$ 225
Total Fees	= \$ 350
<u>Less payments</u>	= \$ 875
Balance Refunded By NASD Dispute Resolution	= \$ 525

Respondent, Citigroup Capital Markets, Inc. f/k/a Salomon Smith Barney Inc., is liable for:

Member Fees	= \$ 425
<u>Forum Fees</u>	= \$ 225
Total Fees	= \$ 650
<u>Less payments</u>	= \$ 425
Balance Due NASD Dispute Resolution	= \$ 225

All balances are due to NASD Dispute Resolution pursuant to Rule 10330(g) of the Code of Arbitration

ARBITRATION PANEL

Harry Roger McConnell - Public Arbitrator, Presiding Chair

Arbitrator:

Harry Roger McConnell
Public Arbitrator, Presiding Chair

Signature Date

ARBITRATION PANEL

Harry Roger McConnell - Public Arbitrator, Presiding Chair

Arbitrator:

Harry Roger McConnell
Harry Roger McConnell
Public Arbitrator, Presiding Chair

August 6, 2003
Signature Date