

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

---

In the Matter of the Arbitration Between:

Name of the Claimant  
Jerry P. Sellers

Case Number: 02-05590

Names of the Respondents  
William H. Greer III  
John C. Walker III  
H. Wayne Hutton  
Salomon Smith Barney Inc.

Hearing Site: Atlanta, Georgia

---

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

**REPRESENTATION OF PARTIES**

For Jerry P. Sellers, hereinafter referred to as "Claimant": Harry G. Mason, Esq., Marietta, Georgia.

For William H. Greer III ("Greer"), John C. Walker III ("Walker"), H. Wayne Hutton ("Hutton") and Salomon Smith Barney Inc. ("Smith Barney"), hereinafter collectively referred to as "Respondents": William A. Hohaus, Director, Associate General Counsel, Citigroup, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: September 18, 2002.  
Reply to Respondents' Request for Dismissal filed on or about: December 9, 2002.  
Claimant signed the Uniform Submission Agreement: September 7, 2002.  
Statement of Answer filed by Respondents on or about: November 22, 2002.  
Respondent Smith Barney signed the Uniform Submission Agreement: November 22, 2002.  
Respondent Walker signed the Uniform Submission Agreement: October 10, 2002.  
Respondent Greer signed the Uniform Submission Agreement: October 10, 2002.  
Respondent Hutton signed the Uniform Submission Agreement: October 9, 2002.

**CASE SUMMARY**

Claimant asserted the following causes of action: violations of laws and regulations; gross negligence; fraud; breach of contract; and, failure to supervise. The causes of action relate to transactions in Microsoft and other unspecified securities products in Claimant's account.

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

**RELIEF REQUESTED**

Claimant requested compensatory damages of \$238,869.00, punitive damages of \$200,000.00,

representative and attorneys' fees, interest, filing and hearing fees, and all other costs deemed just and proper by the arbitrators.

Respondents requested that the Statement of Claim be dismissed in its entirety, that Respondents be awarded their costs, and that all references to this arbitration proceeding be expunged from Respondents Walker, Greer and Hutton's NASD Central Registration Depository ("CRD") records.

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

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

### **AWARD**

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

The Panel finds for Respondents and Claimant's Statement of Claim is denied in all respects.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

The Panel recommends the expungement of all references to the above captioned arbitration from Respondents Greer, Walker and Hutton's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Greer, Walker and Hutton must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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

#### **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	= \$1,700.00
Pre-hearing process fee	= \$750.00
Hearing process fee	= \$2,750.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

December 2, 3 and 4, 2003 Hearing Dates, joint request for adjournment= \$562.50 assessed to Claimant and \$562.50 assessed to Respondents, jointly and severally.

### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

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

Three (3) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$1,350.00
Pre-hearing conferences:     March 15, 2004                             1 session	
April 5, 2004                             1 session	
May 11, 2004                             1 session	
Two (2) Pre-hearing sessions with the Panel @ \$1,125.00	= \$2,250.00
Pre-hearing conferences:     March 14, 2003                             1 session	
February 2, 2004                             1 session	
Six (6) Hearing sessions @ \$1,125.00	= \$6,750.00
Hearing Dates:                     May 26, 2004                             3 sessions	
May 27, 2004                             3 sessions	
<hr/> Total Forum Fees	<hr/> = \$10,350.00

The Panel has assessed \$5,175.00 of the forum fees to Claimant.

The Panel has assessed \$5,175.00 of the forum fees to Respondent Smith Barney.

### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

**FEE SUMMARY**

Claimant is solely liable for:

Initial Filing Fee	= \$300.00
Adjournment Fee	= \$562.50
Forum Fees	= \$5,175.00

---

Total Fees	= \$6,037.50
Less payments	= \$1,425.00

---

Balance Due NASD Dispute Resolution	= \$4,612.50
-------------------------------------	--------------

Respondent Smith Barney is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$5,175.00

---

Total Fees	= \$10,375.00
Less payments	= \$5,200.00

---

Balance Due NASD Dispute Resolution	= \$5,175.00
-------------------------------------	--------------

Respondents are jointly and severally liable for:

Adjournment Fee	= \$562.50
-----------------	------------

---

Total Fees	= \$562.50
Less payments	= \$0.00

---

Balance Due NASD Dispute Resolution	= \$562.50
-------------------------------------	------------

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

**ARBITRATION PANEL**

Sonia Fishkin, Esq.	-	Public Arbitrator, Presiding Chair
Dave Wolf, Jr.	-	Public Arbitrator
Donald M. Swift	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/S/\_\_\_\_\_  
Sonia Fishkin, Esq.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_/S/\_\_\_\_\_  
Dave Wolf, Jr.  
Public Arbitrator

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

\_\_\_\_\_/S/\_\_\_\_\_  
Donald M. Swift  
Non-Public Arbitrator

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

June 4, 2004

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

**FEE SUMMARY**

Claimant is solely liable for:

Initial Filing Fee	= \$300.00
Adjournment Fee	= \$562.50
Forum Fees	= \$5,175.00

---

Total Fees	= \$6,037.50
Less payments	= \$1,425.00

---

Balance Due NASD Dispute Resolution	= \$4,612.50
-------------------------------------	--------------

Respondent Smith Barney is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$5,175.00

---

Total Fees	= \$10,375.00
Less payments	= \$5,200.00

---

Balance Due NASD Dispute Resolution	= \$5,175.00
-------------------------------------	--------------

Respondents are jointly and severally liable for:

Adjournment Fee	= \$562.50
-----------------	------------

---

Total Fees	= \$562.50
Less payments	= \$0.00

---


Balance Due NASD Dispute Resolution	= \$562.50
-------------------------------------	------------

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

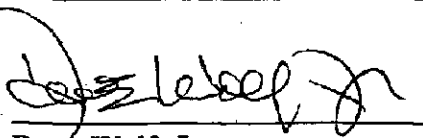
**ARBITRATION PANEL**

Sonia Fishkin, Esq.	-	Public Arbitrator, Presiding Chair
Dave Wolf, Jr.	-	Public Arbitrator
Donald M. Swift	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Sonia Fishkin, Esq.  
Public Arbitrator, Presiding Chair

6/1/2004  
Signature Date



Dave Wolf, Jr.  
Public Arbitrator

6/1/04

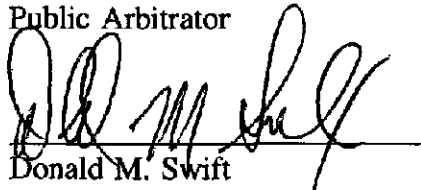
Signature Date

Donald M. Swift  
Non-Public Arbitrator

Signature Date

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

Dave Wolf, Jr.  
Public Arbitrator

  
Donald M. Swift  
Non-Public Arbitrator

Signature Date

  
Signature Date

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