

**Award
NASD Dispute Resolution**

<u>In the Matter of the Arbitration Between:</u>)	
<u>Name of the Claimants</u>)	<u>Case Number:</u> 02-05646
Thomas P. Muchisky and)	
Michi I. Muchisky)	
)	<u>Hearing Site:</u> St. Louis, Missouri
)	
<u>Name of the Respondent</u>)	
Citigroup Global Markets, Inc.)	

NATURE OF DISPUTE

Customers vs. Member Firm

REPRESENTATION OF PARTIES

Gerald P. Greiman, Esq. of the law firm Spencer, Fane, Britt & Browne, LLP, located in St. Louis, Missouri represented Claimants, Thomas P. Muchisky and Michi I. Muchisky ("Muschisky"), hereinafter collectively referred to as "Claimants."

Jerry M. Santangelo, Esq. of the law firm Neal, Gerber & Eisenberg, LLP, located in Chicago, Illinois represented the Respondent, Citigroup Global Markets, Inc. ("Citigroup"), hereinafter referred to as "Respondent."

CASE INFORMATION

Statement of Claim filed on or about September 18, 2002. Claimants, Thomas P. Muchisky and Michi I. Muchisky, jointly signed the Uniform Submission Agreement on August 28, 2002.

Statement of Answer filed by Respondent, Citigroup Global Markets, Inc. on December 20, 2002. Respondent Citigroup did not submit a signed Uniform Submission Agreement.

Claimant filed a Request for Direct Appearance on January 15, 2004. Respondent filed its Opposition to Claimants' Request to Direct Appearances and corresponding Motion in Limine on January 23, 2004. Claimants filed a Reply on January 28, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty, negligence, fraud, suitability and breach of contract. The causes of action relate to technology and telecommunication stocks such as WorldCom, Global Crossing, IBM, Infinity Broadcasting, AOL Time Warner, EMC Corp., Microsoft, Cisco Systems, Intel, Oracle and Sun Microsystems. Claimants asserted that these were high-risk investments and unsuitable to Claimants' needs and objectives.

Unless specifically admitted in its Answer, Respondent Citigroup denied the allegations made in the Statement of Claim and asserted the following defenses:

1. Respondent is not in violation of any rules, regulations or applicable laws.
2. Claimants have failed to state a claim upon which relief can be granted.
3. Claimants are barred by applicable statutes of limitations.
4. Claimants are barred from recovery of any alleged damages by Claimants' own failure to mitigate their damages.
5. Claimants are barred from recovery of any alleged damage by the doctrine of ratification.
6. Claimants are barred from recovery of any alleged damages by the doctrine of waiver.
7. Claimants are barred from recovery of any alleged damages by the doctrine of estoppel.
8. Claimants are barred from recovery of any alleged damages by the doctrine of laches.
9. Any losses allegedly incurred from Claimants are the result of their own acts or omissions.
10. Claimants are not entitled to punitive damages.
11. Claimants' account was properly supervised.

RELIEF REQUESTED

Claimants Muchisky requested \$752,000.00 in compensatory damages, unspecified punitive damages, interest, cost, attorney's fees and such other relief as the Panel may deem just and proper.

Respondent Citigroup requested denial and dismissal of the Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Citigroup did not file with NASD Dispute Resolution, a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

The Panel made no ruling on Claimant's Request for Direct Appearance and Respondent's Motion in Limine because the parties resolved all issues relating to these motions.

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, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Any and all claims asserted by Claimants, Thomas P. Muchisky and Michi I. Muchisky, are denied.
2. Except as otherwise specified herein, parties shall bear their own costs, including attorney's fees.

3. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

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 = \$ 375.00

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, the member firm is a party to this proceeding.

Member surcharge = \$ 2,250.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

February 4-6, 2004, adjournment by Claimants = \$ 1,200.00*

* Postponement fee was waived by the Panel.

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:

Two (2) Pre-hearing sessions with Panel @ \$1,200.00 = \$ 2,400.00

Pre-hearing conferences: June 10, 2003 1 session
March 12, 2004

Five (5) Hearing sessions @ \$1,200.00 = \$ 6,000.00

Hearing Dates: September 21, 2004 1 sessions
February 8, 2004 2 sessions
February 9, 2004 2 sessions

Total Forum Fees = \$ 8,400.00

1. The Panel assessed 50% of the total forum fees in the amount of \$4,200.00 jointly to Claimants, Thomas P. Muchisky and Michi I. Muchisky.
2. The Panel assessed 50% of the total forum fees in the amount of \$4,200.00 solely to the Respondent, Citigroup Global Markets, Inc.

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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Claimants, Thomas P. Muchisky and Michi I. Muchisky, requested copies of arbitration tapes
= \$ 120.00

FEE SUMMARY

1. Claimants, Thomas P. Muchisky and Michi I. Muchisky, are jointly liable for:

Initial Filing Fee	= \$ 375.00
Administrative Costs	= \$ 120.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$ 4,695.00
Less payments	= \$ 1,695.00
Balance Due NASD Dispute Resolution	= \$ 3,000.00

2. Respondent, Citigroup Global Markets, Inc. is solely liable for:

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$11,200.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 4,200.00

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

ARBITRATION PANEL

David O. Kreuter	-	Public Arbitrator, Presiding Chairperson
James P. O'Grady, Ph.D	-	Public Arbitrator
M. Eileen Dorsey, CFP	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ David O. Kreuter
David O. Kreuter
Public Arbitrator, Presiding Chairperson

3/14/05
Signature Date

/s/ James P. O'Grady, Ph.D
James P. O'Grady, Ph.D
Public Arbitrator

3/16/05
Signature Date

/s/ M. Eileen Dorsey, CFP
M. Eileen Dorsey, CFP
Non-Public Arbitrator

3/11/05
Signature Date

3/14/05
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
 Arbitration No. 02-05646
 Award Page 4 of 4

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