

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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Mary Tebbe

Case Number: 02-06184

Name of the Respondents  
Citigroup Global Markets, Inc.  
f/k/a Salomon Smith Barney and  
Christine M. Brady

Hearing Site: St. Louis, Missouri

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**NATURE OF DISPUTE**

Customer vs. Member Firm and Associated Person

**REPRESENTATION OF PARTIES**

Bruce D. Oakes, Esq. of the law firm Oakes & Fosher, LLC, located in St. Louis, Missouri, represented the Claimant, Mary Tebbe. Oakes & Fosher filed their Substitution of Counsel Appearance in place of the law firm, Drakesmith, Burke, Linson, Briscoe & Fosher, LLP, located in St. Louis, Missouri.

Ann Parry, Esq., Senior Vice-President and Associate General Counsel for Citigroup Global Markets, Inc. located in New York, New York, filed a Joint Answer for Respondents, Citigroup Global Markets, Inc. and Christine M. Brady. At the hearing of this matter, Jeana D. McFerron, Esq. of the law firm Gallop, Johnson & Neuman, L.C., located in St. Louis, Missouri, appeared and represented the Respondents, Citigroup Global Markets, Inc. ("Citigroup Global") and Christine M. Brady ("Brady"), hereinafter collectively referred to as "Respondents".

**CASE INFORMATION**

Statement of Claim filed on October 16, 2002.

Claimant, Mary Tebbe, signed the Uniform Submission Agreement on October 1, 2002.

Statement of Answer filed by Respondents, Citigroup Global Markets, Inc. and Christine M. Brady on December 6, 2002.

Claimant's First Amended Statement of Claim was filed on September 5, 2003.

Respondents, Citigroup Global Markets, Inc. and Christine M. Brady, did not file an Answer to Claimant's First Amended Statement of Claim.

Respondent, Citigroup Global Markets, Inc. signed the Uniform Submission Agreement on December 4, 2002.

Respondent, Christine M. Brady, did not submit a Uniform Submission Agreement.

### **CASE SUMMARY**

Claimant asserted the following causes of action: breach of fiduciary duty, negligence, failure to supervise, suitability, violation of NASD and SEC rules and Missouri's Blue Sky Law. The causes of action relate to a 403(b) account in a Smith Barney Aggressive Growth Fund and a Smith Barney Fundamental Value Fund. Claimant asserted that these high-risk, aggressive securities were unsuitable and speculative in nature, and did not meet her investment needs and objectives.

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

1. Claimant, 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 is accordingly estopped or otherwise precluded from recovery herein under the doctrines of waiver, estoppel and ratification.
2. Claimant's Statement of Claim, and each and every count therein, fails to state a claim upon which relief may be granted.
3. Claimant's alleged losses were proximately caused by her own acts or omissions, not by any wrongdoing on the part of Respondents.
4. Claimant failed to mitigate any alleged damages.
5. Claimant has no compensable damages.
6. There is no factual or legal basis for an award of punitive damages in this matter.
7. There is no statutory or contractual basis for an award of attorneys' fees in this matter.
8. There is no private right of action under the NYSE and NASD rules.
9. Since there is no underlying violation of any rule, regulation or law in connection with the claim asserted herein, Claimant cannot state a claim for failure to supervise.

### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$40,838.11
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	unspecified

Respondents, Citigroup Global Markets, Inc. and Christine M. Brady, requested that Claimant's Statement of Claim be dismissed with all costs be assessed against Claimant.

**OTHER ISSUES CONSIDERED AND DECIDED**

Respondent, Christine M. Brady, 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 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Citigroup Global Markets, Inc. and Christine M. Brady, are jointly and severally liable for and shall pay to Claimant, Mary Tebbe, the sum of \$16,671.35 as compensatory damages, plus interest at the rate of 8% per annum to be paid from January 10, 2003 to March 4, 2004 on the amount of \$16,671.35.
2. Respondents, Citigroup Global Markets, Inc. and Christine M. Brady, are jointly and severally liable for and shall pay to Claimant, Mary Tebbe, the sum of \$22,600.00 for attorney's fees. In deciding to award attorney's fees, the Panel considered the pleadings filed by counsel, as well as the arguments presented on behalf of the parties, and determined that authority existed for an award of punitive damages to the Claimants.
3. The parties shall bear all other costs except as specified herein.
4. 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	= \$ 175.00
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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, Citigroup Global Markets, Inc. is a party to this proceeding and is assessed the following fees:

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00
Total fees	= \$2,625.00

### **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 @ \$600.00	= \$ 600.00
Pre-hearing conference: June 18, 2003 1 session	
Two(2) Hearing session @ \$600.00	= \$1,200.00
Hearing Date: March 4, 2004 2 sessions	
Total Forum Fees	= \$1,800.00

1. The Panel has assessed 100% of the total forum fees in the amount of \$1,800.00 jointly and severally to Respondents, Citigroup Global Markets, Inc. and Christine M. Brady.

### **Fee Summary**

1. Claimant, Mary Tebbe, is solely liable for:

Initial Filing Fee	= \$ 175.00
Less payments	= \$ 800.00
Refund Due NASD Dispute Resolution	= \$ 625.00
2. Respondent, Citigroup Global Markets, Inc. is solely liable for:

Member Fees	= \$2,625.00
Less payments	= \$2,625.00
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Respondents, Citigroup Global Markets, Inc. and Christine M. Brady, are jointly and severally liable for:

Forum Fees	= \$1,800.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,800.00

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

**ARBITRATION PANEL**

Gerald Cohen, Esq.	-	Public Arbitrator, Presiding Chairperson
Frances O. Beach	-	Public Arbitrator
Bryan A. McDonald	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Gerald Cohen, Esq.  
Public Arbitrator, Presiding Chairperson

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3/17/04  
Signature Date

\_\_\_\_\_  
Frances O. Beach  
Public Arbitrator

\_\_\_\_\_  
3/18/04  
Signature Date

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Bryan A. McDonald  
Non-Public Arbitrator

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3/17/04  
Signature Date

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3/23/04  
Date of Service (For NASD Dispute Resolution office use only)

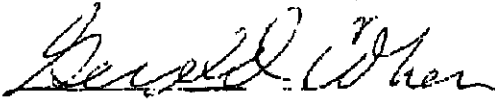
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Public Arbitrator

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Signature Date

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Non-Public Arbitrator

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