

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

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In the Matter of the Arbitration Between:

Charles Thomas Gambetta (Claimant) v. Salomon Smith Barney, Inc. and Brad Zilbersher (Respondents)

Case Number: 02-06226

Hearing Site: New York, New York

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

**REPRESENTATION OF PARTIES**

Claimant Charles Thomas Gambetta ("Gambetta") hereinafter referred to as "Claimant" appeared *pro se*.

Respondents, Salomon Smith Barney, Inc. ("SSB") and Brad Zilbersher ("Zilbersher"), hereinafter collectively referred to as "Respondent": Ann Parry, Esq., Citigroup Global Markets, Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: October 17, 2002.

Claimant signed the Uniform Submission Agreement: October 1, 2002.

Joint Statement of Answer filed by Respondent on or about: December 17, 2002.

SSB signed the Uniform Submission Agreement: January 31, 2003.

Zilbersher signed the Uniform Submission Agreement: February 3, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of fiduciary duty; negligence; and omission of fact. Claimant's claims involved shares of Planet Hollywood Inc. stock.

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

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$43,028.00; punitive damages in the amount of \$40,000.00; costs; attorneys' fees; and other case-related costs.

Respondents requested that the claim be denied in its entirety.

### **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. Claimant's 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 Brad Zilbersher'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 Brad Zilbersher must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.

### **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	= \$225.00
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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	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

**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 a single arbitrator @ \$450.00 = \$ 450.00  
Pre-hearing conference: September 2, 2003 1 session

One (1) Pre-hearing session with Panel @ \$750.00 = \$ 750.00  
Pre-hearing conference: June 17, 2003 1 session

One (1) Hearing session @ \$750.00 = \$ 750.00  
Hearing Date: October 27, 2003 1 session  
Total Forum Fees = \$1,950.00

1. The Panel has assessed \$975.00 of the forum fees against Claimant.
2. The Panel has assessed \$975.00 of the forum fees against SSB.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	= \$ 975.00
Total Fees	= \$1,200.00
<u>Less payments</u>	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 225.00

2. SSB is solely liable for:

Member Fees	= \$3,550.00
<u>Forum Fees</u>	= \$ 975.00
Total Fees	= \$4,525.00
<u>Less payments</u>	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 975.00


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**

Barry A. Mahler, Esq.	-	Public Arbitrator, Presiding Chair
Kenneth J. Horowitz	-	Public Arbitrator
Daniel A. Dolan, Esq.	-	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.

  
\_\_\_\_\_  
Barry A. Mahler, Esq.  
Public Arbitrator, Presiding Chairperson

11/7/03  
\_\_\_\_\_  
Signature Date

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Kenneth J. Horowitz  
Public Arbitrator

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Signature Date

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Daniel A. Dolan, Esq.  
Non-Public Arbitrator

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Signature Date

November 17, 2003  
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Date of Service (For NASD Dispute Resolution use only)

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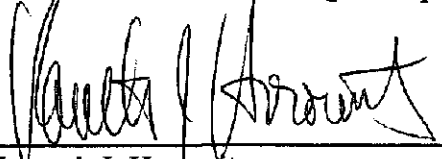
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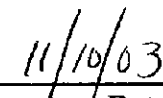
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