
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Cesar Valle and Ana D. Valle

Case Number: 02-06863

Names of the Respondents

Citigroup Global Markets, Inc.
Gregory Roth

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer v. Member Firm and Associated Person.

REPRESENTATION OF PARTIES

Claimants Cesar Valle and Ana D. Valle appeared pro se.

For Citigroup Global Markets, Inc. ("Citigroup") and Gregory Roth ("Roth"), hereinafter collectively referred to as "Respondents": Neil B. Solomon, Esq. and Jason M. Fedo, Esq., Greenberg Traurig, P. A., West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on or about: November 13, 2002.

Claimant Cesar Valle signed the Uniform Submission Agreement: August 30, 2002.

Claimant Ana D. Valle signed the Uniform Submission Agreement: November 5, 2002.

Statement of Answer filed by Respondents on or about: December 23, 2002.

Respondent Citigroup signed the Uniform Submission Agreement: December 20, 2002.

Respondent Roth signed the Uniform Submission Agreement: December 18, 2002.

Motion to Dismiss filed by Respondents on or about: November 25, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: unauthorized trading; negligence; failure to execute; and omission of facts. The causes of action relate to the purchase on margin and sale of shares of Concord Communication and Ask Jeeves stock in Claimants' account.

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

RELIEF REQUESTED

Claimants requested compensatory damages of \$24,169.16.

Respondent requested that Claimants' claims be dismissed with prejudice, with costs assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

Pursuant to the initial telephonic pre-hearing scheduling order, a pre-hearing telephone conference was scheduled for September 9, 2003, to review outstanding issues related to discovery. Claimants did not appear on the call. Thereafter, on or about October 13, 2003, Respondents filed with NASD Dispute Resolution ("NASD") a Motion to Compel Claimants to produce documents. Claimants did not file a response. On or about November 6, 2003, a pre-hearing telephonic conference was conducted to address Respondents' Motion to Compel. On or about November 6, 2003, the Arbitrator issued an Order which directed Claimants to deliver all documents ordered to be produced therein on or before November 17, 2003. The Order further stated that failure to comply with said Order may, upon motion made by Respondents, cause sanctions to be imposed against Claimants, including but not limited to, dismissal of the case pursuant to Rule 10305(b) of the NASD Code of Arbitration Procedure (the "Code").

On or about November 25, 2003, Respondents filed with NASD a Motion to Dismiss for Claimants' failure to comply with the Arbitrator's November 6, 2003 Order. Claimants did not file a response. On December 22, 2003, the Arbitrator ordered that an emergency pre-hearing telephonic conference be conducted on December 30, 2003, to address Respondents' Motion to Dismiss. Claimants did not attend said conference call. As such, Claimants defaulted and thereby violated the third of three orders issued by the Arbitrator which mandated performance and/or appearance on the part of Claimants. Subsequent to the conclusion of the conference call, on December 30, 2003, Claimant Cesar Valle filed with NASD correspondence which requested that the Arbitrator continue and not dismiss the case. On December 30, 2003, the Arbitrator issued an Order which granted Respondents' Motion to Dismiss with prejudice.

On or about January 13, 2004, Claimants filed with NASD a Motion for Reconsideration of the Arbitrator's December 30, 2003 Order dismissing Claimants' claims with prejudice. On or about February 13, 2004, Respondents filed with NASD a response to Claimants' Motion for Reconsideration. On February 23, 2004, the Arbitrator issued an order which denied Claimants' Motion for Reconsideration for Claimants' failure to comply with the Arbitrator's orders and NASD rules.

AWARD

After considering the pleadings and the record in this matter, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Claimants' claims are dismissed with prejudice.

The Arbitrator recommends the expungement of all references to the above captioned arbitration from Respondent Roth'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 Roth must obtain confirmation from a court of competent jurisdiction before the 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 = \$125.00

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, Respondent Citigroup is a member firm and a party.

Member surcharge = \$425.00

Total Member Fees = \$425.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

November 12, 2003, adjournment requested by Claimants = \$ 450.00

The Arbitrator assessed the \$450.00 adjournment fee to Claimants, 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 Arbitrator has assessed forum fees for each session conducted. A 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:

Five (5) Pre-hearing sessions with a single arbitrator @ \$450.00 per session = \$2,250.00

Pre-hearing conferences:	March 25, 2003	1 session
	May 22, 2003	1 session
	September 3, 2003	1 session
	November 6, 2003	1 session
	December 30, 2003	1 session

Total Forum Fees = \$2,250.00

The Arbitrator has assessed the total forum fees of \$2,250.00 to Claimants, jointly and severally.

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<u>Less payments</u>	= \$ 575.00
Balance Due NASD Dispute Resolution	= \$2,250.00

Respondent, Citigroup, is solely liable for:

<u>Member Fees</u>	= \$ 425.00
<u>Total Fees</u>	= \$ 425.00
<u>Less payments</u>	= \$ 425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATOR

Arthur L. Tepper, Esq.

Public Arbitrator, Presiding Chairperson

Arbitrator's Signature

/s/

Arthur L. Tepper, Esq.
Public Arbitrator, Presiding Chairperson

03/05/04

Signature Date

03/05/04

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

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.

No administrative costs were incurred in this matter.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 125.00
Adjournment Fee	= \$ 450.00
<u>Forum Fees</u>	<u>= \$2,250.00</u>
Total Fees	= \$2,825.00
<u>Less payments</u>	<u>= \$ 575.00</u>
Balance Due NASD Dispute Resolution	= \$2,250.00

Respondent Citigroup is solely liable for:

<u>Member Fees</u>	<u>= \$ 425.00</u>
Total Fees	= \$ 425.00
<u>Less payments</u>	<u>= \$ 425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATOR

Arthur L. Tepper, Esq.

Public Arbitrator, Presiding Chairperson

Arbitrator's Signature

Arthur L. Tepper, Esq.

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3/5/04

Signature Date

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