

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

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In the Matter of the Arbitration Between:

Ronald B. Hanovice, Cathryn B. Hanovice, Trustees FBO Ronald B. Hanovice, Defined Contribution Pension Plan and Trust dated 01/01/87, Ronald B. Hanovice ACF Rebecca L. Hanovice, UINY/UTMA, Cathryn B. Hanovice ACF Nicholas Hanovice UINY/UTMA, ACF Gordon B. Hanovice, UINY/UTMA Ronald B. Hanovice, SSB IRA Custodian, Ronald B. Hanovice, and Cathryn B. Hanovice (Claimants) v. Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. and Frederick M. Englert (Respondents)

Case Number: 02-07500

Hearing Site: New York, New York

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Nature of the Dispute: Customers v. Member and Associated Person.

**REPRESENTATION OF PARTIES**

Claimants Ronald B. Hanovice, Cathryn B. Hanovice, Trustees FBO Ronald B. Hanovice, Defined Contribution Pension Plan and Trust dated 01/01/87, Ronald B. Hanovice ACF Rebecca L. Hanovice, UINY/UTMA, Cathryn B. Hanovice ACF Nicholas Hanovice UINY/UTMA, ACF Gordon B. Hanovice, UINY/UTMA Ronald B. Hanovice, SSB IRA Custodian, Ronald B. Hanovice, and Cathryn B. Hanovice hereinafter collectively referred to as "Claimants": Frank J. Franzino, Esq., Meier Franzino & Scher, LLP, New York, NY.

Respondents Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. ("Citigroup") and Frederick M. Englert ("Englert") hereinafter collectively referred to as "Respondents": Hugo A. Hilgendorff, IV, Esq., Bressler Amery & Ross, P.C., Florham Park, NJ.

**CASE INFORMATION**

Statement of Claim filed on or about: December 10, 2002.

Amended Statement of Claim filed on or about: July 22, 2003.

Claimants signed the Uniform Submission Agreement: December 4, 2002.

Joint Statement of Answer filed by Respondents on or about: March 5, 2003.

Amended Statement of Answer filed by Respondents on or about: December 9, 2003.

Respondents signed the Uniform Submission Agreement: February 19, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of fiduciary duty, unsuitability, failure to diversify, unauthorized trading, negligence and fraud. The causes of action relate to shares of common stock.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing as set forth in the Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested the following damages:

Compensatory Damages	An amount no less than \$597,327.00 together with lost opportunities and interest.
Punitive Damages	Amount Unspecified
Attorneys' Fees, Interest & Costs	Amount Unspecified

Respondents requested the following relief:

Respondents requested that Claimants' Statement of Claim be dismissed, that the Arbitration Panel (the "Panel") enter an order expunging all references to this claim from Respondent Englert's registration records maintained by the Central Registration Depository ("CRD"), and that the Panel award Respondents costs and such other further relief as they deem just and proper.

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

On or about October 15, 2004, the parties notified NASD Dispute Resolution that they settled this matter. By letter dated November 24, 2004, counsel for Respondents made a motion to re-open this matter in order for the Panel to review and approve this Stipulated Award. By letter dated December 21, 2004, the Panel granted Respondents' motion.

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**

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

- 1) Respondents Salomon Smith Barney, Inc. and Fred M. Englert are dismissed with prejudice. Claimants and Respondent Salomon Smith Barney, Inc. have entered into a confidential settlement agreement which shall be complied with by the parties.

- 2) The Panel recommends the expungement of all references to the above captioned arbitration from the registration records of Respondent Fred M. Englert maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Fred M. Englert must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) Each party shall bear its own costs and expenses associated with the above-referenced arbitration.
- 4) Any and all relief not specifically addressed herein 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
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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. In this matter, Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. is a party.

Member Surcharge	= \$2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$4,000.00</u>
Total Member Fees	= \$7,000.00

#### **Adjournment Fees**

The following adjournment fees are assessed:

March 30-31, 2004, April 1, 2004, adjournment requested by Claimants	= \$1,200.00
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#### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

October 19-21, 2004, settled by parties	= \$300.00
Claimants' share	= \$150.00

Respondents' share = \$150.00

**Forum Fees and Assessments**

The Panel assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session = \$ 450.00

Pre-hearing conference: June 15, 2004 1 session

Three (3) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$3,600.00

Pre-hearing conferences: August 6, 2003 1 session

October 7, 2003 1 session

March 8, 2004 1 session

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Total Forum Fees = \$4,050.00

1. The Panel has assessed 50% of the forum fees, or \$600.00, for the October 7, 2003 pre-hearing conference against Claimants, and in accordance with Rule 10306 of the NASD Code of Arbitration Procedure Claimants have been assessed \$2,280.00 of the forum fees for the August 6, 2003, March 8, 2004, and June 15, 2004 pre-hearing conferences for a total of \$2,880.00 in forum fees.
2. The Panel has assessed 50% of the forum fees, or \$600.00, for the October 7, 2003 pre-hearing conference jointly and severally against Respondents.
3. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure Respondent Citigroup has been assessed \$285.00 of the forum fees for the August 6, 2003, March 8, 2004, and June 15, 2004 pre-hearing conferences.
4. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure Respondent Englert has been assessed \$285.00 of the forum fees for the August 6, 2003, March 8, 2004, and June 15, 2004 pre-hearing conferences.

**Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Adjournment Fee	= \$1,200.00
Three-Day Cancellation Fee	= \$ 150.00
Forum Fees	= \$2,880.00
Total Fees	= \$4,605.00
Less payments	= \$4,605.00

Balance Due NASD Dispute Resolution = \$ 0.00

2. Respondent Citigroup is solely liable for:

Member Fees	= \$7,000.00
<u>Forum Fees</u>	<u>= \$ 285.00</u>
Total Fees	= \$7,285.00
<u>Less payments</u>	<u>= \$9,355.00</u>
Refund Due Citigroup	= \$2,070.00

3. Respondent Englert is solely liable for:

<u>Forum Fees</u>	<u>= \$ 285.00</u>
Total Fees	= \$ 285.00
<u>Less payments</u>	<u>= \$ 285.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondents are jointly and severally liable for:

Three-Day Cancellation Fee	= \$ 150.00
<u>Forum Fees</u>	<u>= \$ 600.00</u>
Total Fees	= \$ 750.00
<u>Less payments</u>	<u>= \$ 750.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

All balances are due and payable to NASD Dispute Resolution.

**Parties' Signature**

**MEIER FRANZINO & SCHER, LLP**

**Attorneys for Claimants**

**Ronald B. Hanovice, Cathryn B. Hanovice, Trustees**

**FBO Ronald B. Hanovice, Defined Contribution**

**Pension Plan and Trust dated 01/01/87; Ronald B.**

**Hanovice, ACF Rebecca L. Hanovice, UINY/UTMA,**

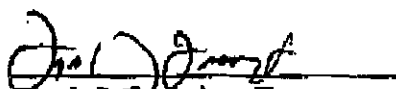
**Cathryn B. Hanovice ACF Nicholas Hanovice**

**UINY/UTMA ACF Gordon B. Hanovice,**

**UINY/UTMA Ronald B. Hanovice, SSB IRA**

**Custodian, Ronald B. Hanovice and**

**Cathryn B. Hanovice**

  
Frank J. Franzino, Esq.

11/18/04  
Signature Date

**BRESSLER, AMERY & ROSS, P.C.**

**Attorneys for Respondents**

**Citigroup Global Markets, Inc. and**

**Fred M. Englert**

  
Hugo A. Hilgendorff, Esq.

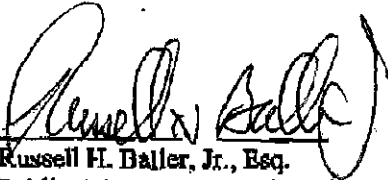
11/18/04  
Signature Date

**ARBITRATION PANEL**


Russell H. Baller, Jr., Esq.  
Stephen T. Rodriguez, Esq.  
Steven R. LaBarge

- Public, Presiding Chair  
- Public  
- Industry Arbitrator

**Concurring Arbitrators' Signature(s)**

  
Russell H. Baller, Jr., Esq.  
Public Arbitrator, Presiding Chair

12/20/04  
Signature Date

  
Stephen T. Rodriguez, Esq.  
Public Arbitrator

12-16-04  
Signature Date

\_\_\_\_\_  
Steven R. LaBarge  
Industry Arbitrator

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

April 18, 2005  
Date of Service (For NASD office use only)

**ARBITRATION PANEL**

Russell H. Baller, Jr., Esq.  
Stephen T. Rodriguez, Esq.  
Steven R. LaBarge

Public, Presiding Chair  
Public  
Industry Arbitrator

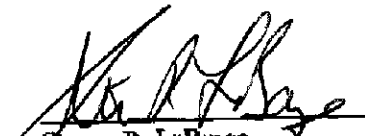
**Concurring Arbitrators' Signature(s)**

\_\_\_\_\_  
Russell H. Baller, Jr., Esq.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
Stephen T. Rodriguez, Esq.  
Public Arbitrator

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

  
\_\_\_\_\_  
Steven R. LaBarge  
Industry Arbitrator

12-15-04  
Signature Date

April 18, 2005  
Date of Service (For NASD office use only)