

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

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In the Matter of the Arbitration Between:

Joseph Merola and Judith Merola (Claimants) v. Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc., Jack Grubman, and Paul Gallagher (Respondents)

Case Number: 03-00895

Hearing Site: Boston, Massachusetts

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

**REPRESENTATION OF PARTIES**

Claimants Joseph Merola ("Joseph Merola") and Judith Merola ("Judith Merola") hereinafter collectively referred to as "Claimants": Marc S. Henzel, Esq., Law Offices of Marc S. Henzel, Bala Cynwyd, PA.

Respondent Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. ("Citigroup"), Jack Grubman ("Grubman"), and Paul Gallagher ("Gallagher") hereinafter collectively referred to as "Respondents": Dennise S. Mulvihill, Esq., Bressler, Amery & Ross, P.C., Morristown, NJ.

**CASE INFORMATION**

Statement of Claim filed on or about: February 3, 2003.

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

Joint Statement of Answer filed by Respondents on or about: June 16, 2003.

Respondent Grubman signed the Uniform Submission Agreement: July 2, 2003.

Respondent Gallagher signed the Uniform Submission Agreement: July 4, 2003.

Respondent Citigroup did not sign the Uniform Submission Agreement.

**CASE SUMMARY**

Claimants asserted the following causes of action: violation of Section 10(b) of the Exchange Act and Rule 10b-5; violation of Section 20(a) of the Exchange Act; misrepresentation; unsuitability; breach of fiduciary duty; failure to supervise; and negligence. The causes of action relate to shares of Global Crossing ("GX").

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

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$163,000.00, plus commissions, plus compensatory damages in the amount of \$5,411.00 (penalties, taxes plus interest); interest costs; attorneys' fees; and punitive damages.

Respondents requested that the Claimants' Statement of Claim be dismissed with prejudice, in its entirety, and that the Arbitrators award Respondents costs and such other relief as they deem just and proper.

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

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

On or about July 28, 2004, NASD Dispute Resolution was notified that the parties settled this matter and were requesting the entry of a Stipulated Award.

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. Claimants' claims are dismissed.
2. Each party shall bear its own costs and expenses, except that Respondents shall bear the cost of obtaining the expungement referenced in paragraph 3 below.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Paul Gallagher'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 Gallagher must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
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 = \$300.00

#### **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 persons 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	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

#### **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:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$2,250.00

Pre-hearing conferences:	January 21, 2004	1 session
	June 22, 2004	1 session

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Total Forum Fees = \$2,250.00

1. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure Claimants Joseph and Judith Merola have been assessed \$562.50 of the forum fees.
2. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure Respondent Citigroup has been assessed \$562.50 of the forum fees.
3. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure Respondent Grubman has been assessed \$562.50 of the forum fees.
4. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure Respondent Gallagher has been assessed \$562.50 of the forum fees.

### **FEE SUMMARY**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 562.50</u>

Total Fees	= \$ 862.50
<u>Less payments</u>	<u>= \$ 1,875.00</u>
Refund Due Claimants	= \$ 450.00

*Pursuant to Rule 10332(f) of the NASD Code of Arbitration Procedure, the NASD shall retain the total initial amount of the hearing session deposited by the Claimants since this office was notified by the parties that they settled or withdrew this matter within 8 business days of the first scheduled hearing session.*

4. Respondent Citigroup is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$ 562.50
Total Fees	= \$5,762.50
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 562.50

5. Respondent Grubman is solely liable for:

Forum Fees	= \$ 562.50
Total Fees	= \$ 562.50
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 562.50

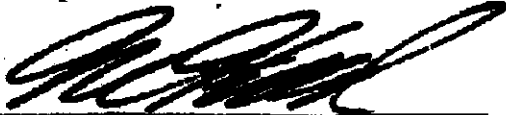
6. Respondent Gallagher is solely liable for:

Forum Fees	= \$ 562.50
Total Fees	= \$ 562.50
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 562.50

All balances are due and payable to NASD Dispute Resolution

**Counsel's Approval**

This Stipulated Award has been reviewed and approved by counsel for the parties.



Marc S. Henzel, Esq.  
Attorney for Claimants

8/9/04

Signature Date

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Dennise S. Mulvihill, Esq.  
Attorney for Respondents

Signature Date

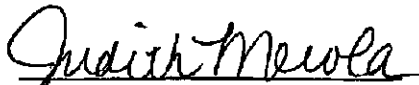
**Parties' Signatures**

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Joseph Merola  
Claimant

Signature Date

**Parties' Signatures**



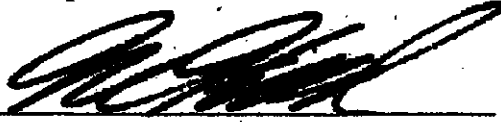
Judith Merola  
Claimant

Aug. 1, 2004

Signature Date

**Counsel's Approval**

This Stipulated Award has been reviewed and approved by counsel for the parties.

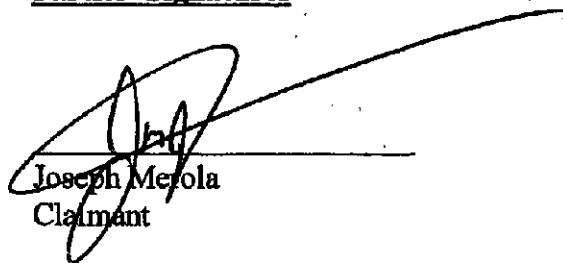
  
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Marc S. Henzel, Esq.  
Attorney for Claimants

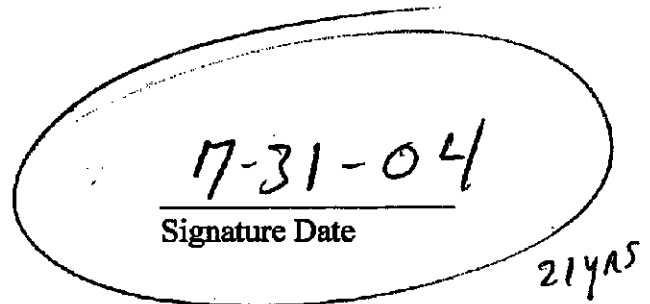
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Signature Date

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Dennise S. Mulvihill, Esq.  
Attorney for Respondents

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Signature Date

**Parties' Signatures**

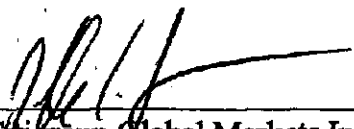
  
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Joseph Merola  
Claimant

  
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Signature Date  
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**Parties' Signatures**

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Judith Merola  
Claimant

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

  
Citigroup Global Markets Inc.  
(f/k/a Salomon Smith Barney Inc.)  
Respondent  
By:

8/9/04

Signature Date

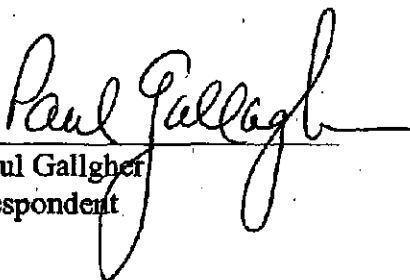
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Paul Gallagher  
Respondent

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

\_\_\_\_\_  
Jack Grubman  
Respondent

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

Citigroup Global Markets Inc.  
(f/k/a Salomon Smith Barney Inc.)  
Respondent  
By:

  
Paul Gallagher  
Respondent

Jack Grubman  
Respondent

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

8/12/04  
Signature Date

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




Citigroup Global Markets Inc.  
(f/k/a Salomon Smith Barney Inc.)  
Respondent  
By:

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

Paul Gallgher  
Respondent

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

  
\_\_\_\_\_  
Jack Grubman  
Respondent


8/5/04  
Signature Date

**ARBITRATION PANEL**

David S. Kirk	-	Public Arbitrator, Presiding Chair
Arthur M. Read, II, Esq.	-	Public Arbitrator
Francis C. Cleary, Jr., 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 is which is my award.

  
\_\_\_\_\_  
David S. Kirk  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
Arthur M. Read, II, Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Francis C. Cleary, Jr., Esq.  
Non-Public Arbitrator

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

September 23, 2004

\_\_\_\_\_  
Date of Service (For NASD office use only)

**ARBITRATION PANEL**

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David S. Kirk  
Public Arbitrator, Presiding Chair

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Signature Date



Arthur M. Read, II, Esq.  
Public Arbitrator

8/27/04  
Signature Date

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Francis C. Cleary, Jr., Esq.  
Non-Public Arbitrator

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Signature Date

September 23, 2004

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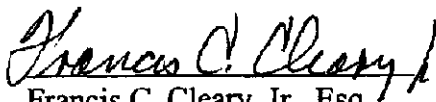
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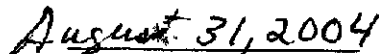
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Arthur M. Read, II, Esq.  
Public Arbitrator

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Signature Date

  
Francis C. Cleary, Jr., Esq.  
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