

**Stipulated Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimant

Joan Clemons, Individually

And as Executrix of the Estate of Mildred Petro

Case Number: 03-00989

Names of the Respondents

Citigroup Global Markets, Inc. f/n/a

Salomon Smith Barney, Inc. and

Joseph Procopio

Hearing Site: Pittsburgh, PA

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

**REPRESENTATION OF PARTIES**

Claimant, Joan Clemons, individually and as Executrix of the Estate of Mildred Petro, hereinafter referred to as "Claimant", was represented by Arnold Y. Steinberg, Esq., Hickory, Pennsylvania.

Respondents, Citigroup Global Markets, Inc. f/n/a Salomon Smith Barney, Inc. ("Citigroup") and Joseph Procopio ("Procopio"), hereinafter collectively referred to as "Respondents", were represented by Linda R. Alpert, Associate General Counsel, Citigroup, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on February 5, 2003.

Claimant Joan Clemons signed the Uniform Submission Agreement on January 28, 2003.

Claimant Joan Clemons' uncontested Motion to Add Party filed on April 29, 2004.

Claimants' Amended Statement of Claim filed on March 22, 2005.

Claimant Joan Clemons executed and filed on behalf of herself and as Executrix of the Estate of Mildred Petro an Amended Uniform Submission Agreement on March 22, 2005.

Statement of Answer filed by Respondents on July 24, 2003.

A representative of Respondent Citigroup signed the Uniform Submission Agreement on July 24, 2003.

Respondent Procopio signed the Uniform Submission Agreement on July 23, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of fiduciary duty, negligent supervision, and negligence. The causes of action arise out of withdrawals from the account.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted the following defenses: all transactions were appropriately entered and confirmed, there were no violations of law, claims are barred by the applicable statutes of limitations, Claimant authorized all transactions, Claimant failed to timely complain, Claimant assumed the risk of loss, there was no breach of duty or negligence, and loss was due to other causes.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$122,000.00; and punitive damages, attorneys' fees, and costs in unspecified amounts.

Respondents requested dismissal of the Statement of Claim in its entirety and expungement of Procopio's regulatory records.

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

On May 10, 2004, the Panel granted Claimant Joan Clemons' Motion to Add Party.

Prior to the hearing, the parties fully and finally settled all claims by and between them. Therefore, the parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

### **AWARD**

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The parties have amicably resolved their differences and have requested this Stipulated Award and agree that all claims should be dismissed with prejudice;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Procopio'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 Procopio must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

### **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 person at the time of the events giving rise to the dispute. Accordingly, Citigroup is a party.

Member surcharge = \$1,700.00

Pre-hearing process fee = \$ 700.00

Hearing process fee = \$2,750.00

#### **Adjournment Fees Adjournment Fees Adjournment Fees Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

March 30-April 1, 2004, adjournment to mediate requested by Claimant = waived

#### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel @ \$1,125.00 = \$1,125.00

Pre-hearing conference: December 15, 2003 1 session

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Total Forum Fees = \$1,125.00

1. The Panel has assessed \$562.50 of the forum fees to Claimant, individually and as Executrix of the Estate of Mildred Petro.

2. The Panel has assessed \$562.50 of the forum fees jointly and severally to Respondents.

#### **Fee Summary**

1. Claimant, individually and as the Executrix of the Estate of Mildred Petro, is assessed and shall pay:

Initial Filing Fee = \$ 300.00

Forum Fees = \$ 562.50

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Total Fees = \$ 862.50

Less payments = \$1,425.00

Refund owed from NASD Dispute Resolution = \$ 562.50

2. Respondent Citigroup is assessed and shall pay:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,387.50
<u>Refund owed from NASD Dispute Resolution</u>	= \$ 187.50

3. Respondents are jointly and severally assessed and shall pay:

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

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

ARBITRATION PANEL

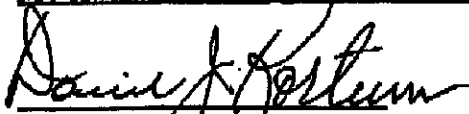
Daniel J. Kortum, Esq.

Lisa M. Kafer

Peter Glasser

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator, Panelist
- Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Daniel J. Kortum, Esq.  
Public Arbitrator, Presiding Chairperson

3-28-05  
Date

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Lisa M. Kafer  
Public Arbitrator, Panelist

\_\_\_\_\_  
Date

\_\_\_\_\_  
Peter Glasser  
Non-Public Arbitrator, Panelist

\_\_\_\_\_  
Date

March 29, 2005  
Date of Service (For NASD office use only)

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Lisa M. Kafer	-	Public Arbitrator, Panelist
Peter Glasser	-	Non-Public Arbitrator, Panelist

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Public Arbitrator, Presiding Chairperson

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Lisa M. Kafer	-	Public Arbitrator, Panelist
Peter Glasser	-	Non-Public Arbitrator, Panelist

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Public Arbitrator, Presiding Chairperson

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Lisa M. Kafer  
Public Arbitrator, Panelist

\_\_\_\_\_  
Date

Peter Glasser  
\_\_\_\_\_  
Peter Glasser  
Non-Public Arbitrator, Panelist

3/24/05  
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Date

March 26, 2005  
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Date of Service (For NASD office use only)