

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Bobbie Marie Mezei

and

03-01094  
Nashville, Tennessee

Name of Respondent

Salomon Smith Barney, Inc. n/k/a Citigroup Global Markets, Inc.

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Nature of the Dispute: Customer vs. Member

**REPRESENTATION OF PARTIES**

Bobbie Marie Mezei ("**Claimant**") was represented by H. Naill Falls, Jr., Esq. Falls & Veach, Nashville, Tennessee.

Salomon Smith Barney, Inc. n/k/a Citigroup Global Markets, Inc. ("**Respondent**") was represented by J. Jackson, Esq. and Michelle S. Grant, Esq., Dorsey & Whitney LLP, Minneapolis, Minnesota.

**CASE INFORMATION**

The Statement of Claim was filed on or about February 13, 2003. The Submission Agreement of Claimant Bobbie Marie Mezei was signed on or about February 11, 2003.

The Statement of Answer was filed by Respondent Salomon Smith Barney, Inc. n/k/a Citigroup Global Markets, Inc. on or about May 1, 2003. The Submission Agreement of Respondent Salomon Smith Barney, Inc. n/k/a Citigroup Global Markets, Inc. was signed on or about April 24, 2003.

**CASE SUMMARY**

Claimant Bobbie Marie Mezei asserted the following causes of action: breach of fiduciary duty; misrepresentations; unsuitability; failure to supervise; churning; common law fraud; and negligence. The causes of action relate to the order execution of securities investments such as the Global Crossings stock. The Claimant alleged that the Respondent recommended the use of margin debt to enhance investing in stocks and charged substantial management fees.

Claimant specifically stated the following:

Remarkably, in 1999, Mr. Keller (broker) began to use margin debt to fund Ms. Mezei's withdrawals from her account, even though she had hundreds of thousands of dollars in assets. Mr. Keller did not obtain claimant's consent to the use of margin debt. Ms. Mezei knew absolutely nothing about margin, but Mr. Keller did not explain to her the expenses she would incur, nor did he disclose the increased risks to which she would be exposed.

Unless specifically admitted in its Answer, Respondent Salomon Smith Barney, Inc. n/k/a Citigroup Global Markets, Inc. denied the allegations made in the Statement of Claim and asserted the following defenses: Respondent states that Claimant ratified the investment decisions in the subject account by failing to timely object to any actions by Respondent; Respondent states that Claimant, either expressly and/or by conduct, approved, authorized, participated in, and ratified the acts and transactions complained of and upon which recovery is sought, and is accordingly estopped or otherwise precluded from recovery herein under the doctrines of waiver, estoppel, and ratification; Respondent states that Claimant's Statement of Claim, and each and every count therein, fails to state a claim upon which relief may be granted; Respondent states that Claimant failed to properly mitigate her alleged damages and is therefore precluded from recovery; Claimant received monthly statements and confirmation slips that apprised her of the activity in and the status of the subject account; If the activity failed to reflect her investment objectives, Claimant failed to inform Respondent; Accordingly, she is barred from recovery; Respondent states that Claimant's alleged losses were proximately caused by her own acts of omissions, not by any wrongdoing on the part of Respondent; Respondent states that Claimant has failed to allege any basis in fact or in law for an award of punitive damages; Respondent states that Claimant has failed to allege any fact or in law for an award of exemplary damages; and, Respondent states that since there were no underlying violations of any rule, regulation, law or other legal obligation, Claimant cannot sustain a failure to supervise claim; and, to the extent that Claimant intended to include a churning claim Claimant has failed to provide any factual predicate to support the three elements necessary to establish such a claim.

#### **RELIEF REQUESTED**

Claimant requested an award in the amount of all losses caused by Respondent's losses, plus interest, punitive damages, attorney's fees and provide such further relief as the Arbitration Panel deems to be just and proper.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded costs and attorneys' fees.

#### **OTHER ISSUES CONSIDERED & DECIDED**

The Claimant's Pre-hearing Brief was filed on or about February 2, 2004.

The Respondent's Pre-hearing Brief was filed on or about February 2, 2004.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, if any, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Citigroup Global Markets, Inc., is liable for and shall pay to Claimant Bobbie Marie Mezel, the sum of \$210,000.00 as compensatory damages.
2. Respondent, Citigroup Global Markets, Inc., shall pay to Claimant, Bobbie Marie Mezel, the sum of \$250.00 as reimbursement of the initial claim filing fee.
3. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

### **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 = \$250.00

#### **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. In this matter, the member firm is Citigroup Global Markets, Inc.

Member surcharge \$ 1,500.00

Pre-hearing process fee	\$	750.00
Hearing process fee	\$	<u>2,200.00</u>
Total Member Fees	\$	4,450.00

### **Adjournment Fees**

Adjournments requested during these proceedings:

February 11-13, 2004 Hearing Dates, joint request by  
Claimant and Respondent = \$1,000.00  
(waived by the NASD due to Mediation)

### **Forum Fees and Assessments**

The Arbitration 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. Fees associated with these proceedings are:

1 Pre-hearing session with Panel	x	1,000.00	\$	1,000.00
September 11, 2003	1 session			
7 Hearing sessions	X	1,000.00	\$	7,000.00
April 21, 2004	3 sessions			
April 22, 2004	3 sessions			
April 23, 2004	1 session			
Total Forum Fees			\$	<u>8,000.00</u>

The Arbitration Panel has assessed \$8,000.00 of the forum fees to Citigroup Global Markets, Inc.

### **Fee Summary**

Claimant, Bobbie Marie Mezei, shall be and hereby is liable for:

<u>Initial Filing Fee</u>	= \$	250.00
Total Fees	= \$	250.00
<u>Less payments</u>	= \$	<u>-2,003.15</u>
Refund due to Claimant	= \$	1,753.15

Respondent, Citigroup Global Markets, Inc., shall be and hereby is liable for:

Member Fees	= \$	4,450.00
<u>Forum Fees</u>	= \$	<u>8,000.00</u>

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Total Fees	= \$	12,450.00
<u>Less payments</u>	= \$	<u>-4,450.00</u>
Balance Due NASD Dispute Resolution	= \$	8,000.00

All balances are due to NASD Dispute Resolution

**ARBITRATION PANEL**

Fred M. Acuff, Jr., Esq. - Public Arbitrator, Presiding Chair  
Fred W. Beesley, Jr., Esq. - Public Arbitrator  
R. Thomas Barksdale - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Fred M. Acuff, Jr., Esq.  
Fred M. Acuff, Jr., Esq.  
Public Arbitrator, Presiding Chair

05/11/04  
Signature Date

/s/ Fred W. Beesley, Jr., Esq.  
Fred W. Beesley, Jr., Esq.  
Public Arbitrator

05/11/04  
Signature Date

/s/ R. Thomas Barksdale  
R. Thomas Barksdale  
Non-Public Arbitrator

05/11/04  
Signature Date

05/12/04  
Date of service

## NASD Dispute Resolution

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<b>Less payments</b>	<b>= \$</b>	<b><u>-4,450.00</u></b>
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<b>Balance Due NASD Dispute Resolution</b>	<b>= \$</b>	<b>8,000.00</b>
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**Fred M. Acuff, Jr., Esq. - Public Arbitrator, Presiding Chair**

**Fred W. Beesley, Jr., Esq. - Public Arbitrator**

**R. Thomas Barksdale - Non-Public Arbitrator**

### Consuming Arbitrators:

John Apple

**Fred M. Acuff, Jr., Esq.**  
**Public Arbitrator, Presiding Chair**

May 11, 2004  
Signature Date

**Signature Date**

**Fred W. Beesley, Jr., Esq.**  
**Public Arbitrator**

**Signature Date**

**R. Thomas Barksdale**  
Non-Public Arbitrator

**Signature Date**

NASD Dispute Resolution  
Arbitration No. 03-01094  
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Public Arbitrator, Presiding Chair

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11 MAY 04  
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NASD Dispute Resolution  
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5/11/04  
Signature Date