

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

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In the Matter of the Arbitration Between:

Timothy Rutledge and Jacqueline Rutledge (Claimants) v. Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. and Robert Fish (Respondents)

Case Number: 03-01694

Hearing Site: City, State

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

**REPRESENTATION OF PARTIES**

Claimants Timothy Rutledge ("T. Rutledge") and Jacqueline Rutledge ("J. Rutledge") hereinafter collectively referred to as "Claimants": Jay J. Freireich, Esq., Poe & Freireich, P.A., Florham Park, NJ.

Respondents Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. ("Citigroup") and Robert Fish ("Fish") hereinafter collectively referred to as "Respondents": Sean J. Coughlin, Esq., Citigroup Global Markets, Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: March 10, 2003.

Claimants signed the Uniform Submission Agreement: March 3, 2003.

Joint Statement of Answer filed by Respondents on or about: May 29, 2003.

Respondent Citigroup signed the Uniform Submission Agreement: June 16, 2003.

Respondent Fish signed the Uniform Submission Agreement: June 12, 2003.

**CASE SUMMARY**

Claimants asserted the following causes of action: lack of supervision; breach of fiduciary duty; suitability; failure to diversify; breach of contract; negligence; and failure to minimize losses. The causes of action relate to various internet and technology stocks and options.

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 in the amount of \$1,067,422.96; compensatory damages in the amount of \$41,717.64; punitive damages in the amount of \$3,327,421.80; interest; attorneys' fees; costs; witness and production fees; and other case-related costs.

Respondents requested that Claimants' Statement of Claim be dismissed with prejudice with the costs associated with this arbitration assessed against Claimants.

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

Respondent Fish did not appear at the hearing in this matter.

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.

### **AWARD**

After considering the pleadings, and the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimants are denied in their entirety.
2. 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	= \$600.00
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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. Accordingly, Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. is a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

May 4-6, 2004, adjournment by Respondents	= \$1,200.00
August 24-26, 2004, joint adjournment request	= \$1,200.00
Respondents' share	= \$1,200.00

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

The Panel has assessed forum fees for each session conducted. A 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:

One (1) Pre-hearing session with Panel @ \$1,200.00 = \$1,200.00  
Pre-hearing conference: September 10, 2003 1 session

Six (6) Hearing sessions @ \$1,200.00 = \$7,200.00

Hearing Dates: October 26, 2004 2 sessions  
October 27, 2004 2 sessions  
October 28, 2004 2 sessions

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Total Forum Fees = \$8,400.00

1. The Panel has assessed \$4,200.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$4,200.00 of the forum fees jointly and severally against Respondents.

### Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$4,200.00
Total Fees	= \$4,800.00
<u>Less payments</u>	= \$1,800.00
Balance Due NASD Dispute Resolution	= \$3,000.00

2. Respondent Citigroup is solely liable for:

Member Fees	= \$8,550.00
Total Fees	= \$8,550.00
<u>Less payments</u>	= \$8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

Adjournment Fees	= \$2,400.00
Forum Fees	= \$4,200.00
Total Fees	= \$6,600.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$6,600.00

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

**ARBITRATION PANEL**

John R. O'Hanlon, Esq.	-	Public Arbitrator, Presiding Chairperson
Mary Lou McGanney, Ph.D.	-	Public Arbitrator
Robert E. Holley	-	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 which is my award.

John R. O'Hanlon, Esq.  
John R. O'Hanlon, Esq.  
Public Arbitrator, Presiding Chairperson

11-2-04  
Signature Date

Mary Lou McGanney, Ph.D.  
Mary Lou McGanney, Ph.D.  
Public Arbitrator

Signature Date

Robert E. Holley  
Robert E. Holley  
Non-Public Arbitrator

Signature Date

November 5, 2004

Date of Service (For NASD Dispute Resolution use only)

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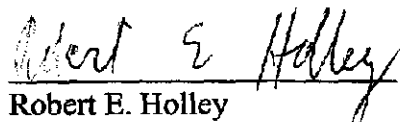
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