

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration between:

Michael Boschetti, Claimant, v. Salomon Smith Barney, Inc. (n/k/a Citigroup Global Markets, Inc.), Harlan Van Vooren, Thomas Gibbens, Jack Grubman, Kevin McCaffrey, Michael Carpenter, and Eduardo Mestre, Respondents

Case Number: 03-02260

Hearing Site: Portland, California

Nature of the Dispute: Customer vs. Members and Associated Persons

REPRESENTATION OF PARTIES

For Claimant:

Timothy A. Canning, Esq.
Law Offices of Timothy A. Canning
Novato, California

For Respondents:

Cameron Stout, Esq.
Christopher A. Stecher, Esq.
Keesal, Young & Logan
San Francisco, California

CASE INFORMATION

Statement of Claim filed: March 25, 2003

Claimant's Uniform Submission Agreement signed: January 28, 2003

Joint Statement of Answer filed by Respondents: July 21, 2003

Respondent Citigroup Global Markets Inc., f/k/a Salomon Smith Barney, Inc.'s Uniform Submission Agreement signed: July 21, 2003

Respondent Harlan Van Vooren's Uniform Submission Agreement signed: April 10, 2003

CASE SUMMARY

Claimant alleged fraud, negligence, breach of contract, breach of fiduciary duty, misrepresentation, unsuitability, and failure to supervise. Claimant's allegations involved various common stocks.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$4,000,000.00, unspecified punitive damages, and costs.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety, expungement of all references to the above-captioned arbitration from each individual respondent's registration record maintained by the NASD Central Registration Depository, and costs.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Thomas Gibbens, Jack Grubman, Kevin McCaffrey, Michael Carpenter, and Eduardo Mestre did not file with NASD Dispute Resolution properly executed submission agreements but are required to submit to arbitration pursuant to the Code of Arbitration Procedure and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

On June 23, 2003, Claimant's counsel wrote a letter to the NASD electing to proceed with this matter in Portland, Oregon.

On July 21, 2003, Respondents Jack Grubman, Kevin McCaffrey, Michael Carpenter, and Eduardo Mestre filed a motion to dismiss. On July 2, 2004, Claimant filed an opposition to the motion. On July 14, 2004, Respondents Jack Grubman, Kevin McCaffrey, Michael Carpenter, and Eduardo Mestre filed a reply to the opposition to the motion. On July 23, 2004, the panel held a pre-hearing conference, attended by the parties and the Panel, to hear oral argument. After due deliberation, the Panel denied the motion to dismiss.

On October 29, 2004, Claimant's counsel executed a Dismissal with Prejudice of the arbitration as against Respondent Jack Grubman only.

On May 18, 2005, the parties submitted a stipulated request for dismissal of all claims with prejudice and an Award recommending the expungement of all references to the above-captioned arbitration from Respondents Harlan Van Vooren's, Thomas Gibbens', Kevin McCaffrey's, Michael Carpenter's, and Eduardo Mestre's registration records maintained by the NASD Central Registration Depository ("CRD"). The Panel granted the parties' request.

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

AWARD

After considering the Stipulation, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. This arbitration claim is dismissed in its entirety with prejudice as to all Respondents.
2. The Panel recommends the expungement of all references to the above-captioned arbitration from Respondents Harlan Van Vooren's, Thomas Gibbens', Kevin McCaffrey's, Michael Carpenter's and Eduardo Mestre's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondents Harlan Van Vooren, Thomas Gibbens, Kevin McCaffrey, Michael Carpenter and Eduardo Mestre 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 attorney's fees.
4. All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD-DR received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	=	\$ 600.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Salomon Smith Barney, Inc. (n/k/a Citigroup Global Markets, Inc.) is a party and the following fees are assessed:

Member Surcharge	=	\$2,800.00
Pre-Hearing Process Fee	=	\$ 750.00
<u>Hearing Process Fee</u>	=	<u>\$5,000.00</u>
Total Member Fees	=	\$8,550.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(5) Pre-hearing conference sessions with a single arbitrator @ \$450.00/session = \$2,250.00

Pre-hearing conferences:	September 16, 2004	1 session
	October 5, 2004	1 session
	October 26, 2004	1 session
	December 27, 2004	1 session
	March 4, 2005	1 session

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

Pre-hearing conferences:	May 17, 2004	1 session
	July 23, 2004	1 session
	November 15, 2004	1 session

Total Forum Fees	= \$5,850.00
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1. The Panel assessed \$1,050.00 of the forum fees to Claimant.
2. The Panel assessed \$4,800.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	=	\$ 600.00
Forum Fees	=	\$ 1,050.00
Total Fees	=	\$ 1,650.00
Less Payments	=	\$(1,800.00)
Refund Due	=	\$ (150.00)

2. Respondent Salomon Smith Barney, Inc. (n/k/a Citigroup Global Markets, Inc.) is charged with the following fees and costs:

Member Fees	=	\$ 8,550.00
Less Payments	=	\$(8,550.00)
Balance Due NASD-DR	=	\$ 0.00

3. Respondents Salomon Smith Barney, Inc. (n/k/a Citigroup Global Markets, Inc.), Harlan Van Vooren, Thomas Gibbens, Jack Grubman, Kevin McCaffrey, Michael Carpenter, and Eduardo Mestre are jointly and severally charged with the following fees and costs:

Forum Fees	=	\$ 4,800.00
Balance Due NASD-DR	=	\$ 4,800.00

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

ARBITRATION PANEL

Andrew K. Chenoweth	—	Public Arbitrator, Presiding Chair
Gerald D. Wygant	—	Public Arbitrator
John F. Harris	—	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Andrew K. Chenoweth, Esq.
Chair, Public Arbitrator

6-10-05

Signature Date

Gerald D. Wygant, Esq.
Public Arbitrator

Signature Date

John F. Harris
Non-Public Arbitrator

Signature Date

6/10/05
Date of Service

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