

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

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In the Matter of the Arbitration Between:

Joanne Minken, Claimant v. Salomon Smith Barney, Inc. (n/k/a Citigroup Global Markets, Inc.)  
and Scott Shagrin, Respondents

Case Number: 03-02914

Hearing Site: San Francisco, California

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Nature of the Dispute: Customer v. Member and Associated Person

**REPRESENTATION OF PARTIES**

For Claimant:

Jules L. Federman  
Santa Barbara, California

Nancy K. Udem, Esq.  
Law Offices of Nancy K. Udem  
Santa Barbara, California

For Respondents:

Robert B. Ericson, Esq.  
Danielle J. M. Tarasen, Esq.  
Bingham McCutchen LLP  
Los Angeles, California

William A. Hohaus, Esq.  
Citigroup Global Markets, Inc.  
New York, New York

**CASE INFORMATION**

*Statement of Claim filed:* April 15, 2003

*Claimant's Uniform Submission Agreement signed:* February 24, 2003

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

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

### **CASE SUMMARY**

Claimant alleged violations of the rules of NASD and other major exchanges, omissions, misrepresentations, unsuitability, and breach of fiduciary duty. Claimant's allegations involved various unspecified securities.

Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested \$500,000.00 in compensatory damages.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety and costs.

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

Respondent Scott Shagrin did not file with the NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure and having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On August 30, 2003, Claimant and Claimant's representative signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On December 22, 2004, Respondents filed a Motion to Change Venue. On December 28, 2004, the Panel deliberated via teleconference and decided to reject the motion as untimely.

During the hearing, after Claimant's case-in-chief, Respondents moved the Panel to dismiss Claimant's claims. Claimant opposed the motion. After due deliberation, the Panel denied the motion.

During the hearing, Respondents requested expungement of all references to this matter from Respondent Scott Shagrin's registration records maintained by the NASD Central Registration Depository ("CRD"). Claimant opposed the motion. After due deliberation, the Panel denied the request.

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**

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

- 1) Claimant's claims are denied in their entirety.
- 2) Respondents' request for expungement of all references to this matter from Respondent Scott Shagrin's registration records maintained by the NASD Central Registration Depository ("CRD") is denied.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 300.00
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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	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,750.00</u>
<b>Total Member Fees</b>	<b>= \$5,200.00</b>

#### **Adjournment Fees**

The following adjournment fees are assessed:

Adjournment of the January 11, 2005 to January 13, 2005 Hearing Dates jointly requested by the parties	= \$1,125.00
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1. The Panel assessed \$562.50 of the adjournment fee to Claimant.
2. The Panel assessed \$562.50 of the adjournment fee jointly and severally to Respondents.

#### **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 or the parties and the Panel. The following fees are assessed:

(1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: June 22, 2004 1 session	
(1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: March 25, 2004 1 session	
(7) Hearing sessions @ \$1,125.00/session	= \$7,875.00
Hearings: March 14, 2005 1 session	

March 15, 2005	2 sessions
March 16, 2005	2 sessions
April 19, 2005	2 sessions

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<b>Total Forum Fees</b>	<b>= \$9,450.00</b>
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1. The Panel assessed \$4,725.00 of the forum fees to Claimant.
2. The Panel assessed \$4,725.00 of the forum fees jointly and severally to Respondents.

**Fee Summary**

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

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 562.50
<u>Forum Fees</u>	<u>= \$ 4,725.00</u>
Total Fees	= \$ 5,587.50
<u>Less payments</u>	<u>= \$(1,525.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 4,062.50</b>

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

Member Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$(5,200.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

3. Respondents Salomon Smith Barney, Inc. (n/k/a Citigroup Global Markets, Inc.) and Scott Shagrin are charged jointly and severally with the following fees and costs:


Forum Fees	= \$ 4,725.00
<u>Adjournment Fee</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 5,287.50
Less payments by Salomon Smith Barney, Inc. (n/k/a Citigroup Global Markets, Inc.)	= \$ (750.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 4,537.50</b>

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

ARBITRATION PANEL

Harve E. Citrin, J.D.	-	Public Arbitrator, Presiding Chair
Paul F. Faberman	-	Public Arbitrator
Robert G. Miller	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

  
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Harve E. Citrin, J.D.  
Chair, Public Arbitrator

21 April 05  
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Signature Date

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Paul F. Faberman  
Public Arbitrator

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

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Robert G. Miller  
Non-Public Arbitrator

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

4/22/05  
\_\_\_\_\_  
Date of Service

**ARBITRATION PANEL**

Harve E. Citrin, J.D.	-	Public Arbitrator, Presiding Chair
Paul F. Faberman	-	Public Arbitrator
Robert G. Miller	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Harve E. Citrin, J.D.  
Chair, Public Arbitrator

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Signature Date



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Paul F. Faberman  
Public Arbitrator



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Signature Date

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Robert G. Miller  
Non-Public Arbitrator

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Signature Date

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4/22/05  
Date of Service

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Harve E. Citrin, J.D.	-	Public Arbitrator, Presiding Chair
Paul F. Faberman	-	Public Arbitrator
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 Chair, Public Arbitrator

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 Signature Date

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 Paul F. Faberman  
 Public Arbitrator

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

  
 Robert G. Miller  
 Non-Public Arbitrator

4/26/05  
 Signature Date

4/26/05  
 Date of Service