

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

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

Case Number: 03-03230

Name of the Respondents

John S. Kuhn, Sr. and
Wachovia Securities Financial Network

Hearing Site: St. Louis, Missouri

NATURE OF DISPUTE

Member Firm vs. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Charles A. Siegel, III, Esq. of the law firm Seigel & Wolff, P.C., located in St. Louis, Missouri, represented Claimant, Citigroup Global Markets, Inc., f/k/a Salomon Smith Barney, Inc. ("Citigroup"), hereinafter referred to as "Claimant."

David Jarvis, Esq. of Wachovia Securities, Inc. located in Richmond, Virginia represented Respondent, Wachovia Securities Financial Network ("Wachovia"), hereinafter referred to as "Respondent Wachovia."

Kevin M. Cushing, Esq. of the law firm Carmody MacDonald, P.C., located in St. Louis, Missouri filed an Appearance for Respondent, John S. Kuhn, Sr. ("Kuhn"), hereinafter referred to as "Respondent Kuhn." On March 22, 2004, Mr. Cushing withdrew as counsel for Kuhn and no subsequent counsel appeared for Respondent Kuhn in this matter.

CASE INFORMATION

A Statement of Claim was filed on or about May 1, 2003. Claimant, Citigroup Global Markets, Inc., signed the Uniform Submission Agreement on May 1, 2003.

A Statement of Answer was filed by Respondent, John S. Kuhn, Sr., on or about October 22, 2003. Respondent Kuhn signed the Uniform Submission Agreement on or about October 22, 2003.

A Statement of Answer and Uniform Submission Agreement were not filed by Wachovia Securities Financial.

CASE SUMMARY

Claimant asserted the following causes of action: breach of employment contract, breach of fiduciary duty and misappropriation. Claimant alleged that Respondent Kuhn, in connection with his new employment with Wachovia Securities, breached provisions of various agreements executed during his employment with Citigroup, including but not limited to, misappropriation of information contained in Citigroup's records constituted as "trade secrets" under the Missouri Uniform Trade Secrets Act. Furthermore, Claimant asserted that Kuhn failed to repay a loan pursuant to a Promissory Note, which required Kuhn to repay all amounts due upon termination of his employment with Citigroup.

Unless specifically admitted in his Answer, Respondent Kuhn denied the allegations made in the Statement of Claim and asserted the following defenses:

1. Kuhn was employed by Claimant from November 2000 until his employment was terminated in April 2003.
2. At the time of his employment, Kuhn was promised by Claimant that it would reimburse him for his expenses in moving from his prior employer to Claimant. The expenses totaled in excess of Four Thousand Two Hundred Dollars (\$4,200.00) and though Respondent submitted his claim for moving expenses, such expenses have not been reimbursed.
3. In addition, at the time of employment Kuhn was promised that he would be reimbursed the expenses of a coaching program in which he enrolled at a cost to himself in excess of Twelve Thousand Dollars (\$12,000.00) plus travel, none of which was reimbursed.
4. At the time of his employment, Kuhn was grouped with two (2) other individuals as "Partners" so that each could help the other in growing the business of the "Partnership."
5. The Partnership of Kuhn with such individuals was promoted, encouraged, sanctioned, and acknowledged by Claimant. As a member of the Partnership, the Kuhn was to be the point man in soliciting business, particularly in Southeast Missouri. Further, Kuhn, while a member of the Partnership, did, in fact, solicit business and increase the business of the Partnership and Citigroup, in general.
6. Despite such efforts, Claimant was told the Partnership was to cut his twenty-five percent (25%) payout on all commissions to twenty percent (20%) in April 2003 and then to sixteen percent (16%) in July 2003. These decreases in commissions were sanctioned by Citigroup's agents, servants and employees.
7. When Kuhn questioned the decrease in his percentage of the Partnership payout, he was told by his "Partners" that the Partnership was to be severed. In furtherance of the severing, Citigroup, through its agents, servants and employees, moved his office; took away his registered assistant; refused to allow him access to Series 7 registered people; removed clients from his customer list and gave such clients to his former "Partners"; mandated that he not contact, talk to, solicit, write or accept a telephone call from such clients; refused to alert clients that he was still with the firm and still in the industry; allowed his former "Partners" to manage and trade-in the accounts for

the clients that he was allowed to keep; forced him to transfer assets in excess of Twelve Million Dollars (\$12,000,000.00) to his former "Partners"; would not assist him in the solicitation of new business; disassembled and removed his personal computer, and removed and retained his artwork. All such actions constituted a breach of Claimant's duties and obligations under the promissory notes and other agreements and documents mentioned in the Claim. In addition, such actions constituted a constructive discharge of Kuhn.

8. As a result of such actions with Citigroup, Kuhn is entitled to a setoff of any such claim of Citigroup to the extent of any damages sustained by Kuhn for loss of such business in an amount to be calculated, together with the value of the personal computer and artwork.
9. Further, Kuhn states that he has not breached any covenants contained in the Statement of Claim.
10. Kuhn also states that he has not solicited Claimant's accounts after his constructive discharge nor has he used, disclosed or published Claimant's confidential/proprietary information or otherwise breached any covenants contained in the Statement of Claim.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$121,234.20
Interest	10% per annum
Attorneys' Fees	unspecified
Other Costs	unspecified

Other Monetary/Non-Monetary Relief if any: Permanent Injunction restraining and

enjoining Respondent Kuhn, and all persons acting in concert with him, (including, but not limited to any officer, employee, agent or other representative of Wachovia Securities Financial Network), from directly or indirectly: (1) soliciting any business from any client or customer whom Kuhn served during his employment with Citigroup; (2) using, disclosing or transmitting (including solicitation of said clients) any information contained in the records of Citigroup, including names, address, and financial information of said clients; and (3) requiring Kuhn to return to Citigroup all originals, copies or other reproductions of any record of Citigroup and all computers provided, and to purge or destroy any computerized record of Citigroup within Kuhn's possession, custody or control.

Respondent, John S. Kuhn, requested that Claimant's claims be dismissed, to award him all fees, expenses and attorney fees incurred, as Panel deemed appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent, Wachovia Securities Financial Network, did not file with NASD Dispute Resolution, a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

At the hearing of this matter, Claimant notified the Panel that all claims against Wachovia Securities were dismissed. The NASD was notified of the dismissal on July 7, 2004. Therefore, Wachovia Securities did not appear at the hearing.

Claimant also voluntarily withdrew its request for Injunctive Relief against Respondent Kuhn, but proceeded as to all other claims in the Statement of Claim.

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, 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. Respondent, John S. Kuhn, is solely liable for and shall pay to Claimant, Citigroup Global Markets, Inc., f/k/a Salomon Smith Barney, Inc., the sum of \$133,357.00 a compensatory damages, plus interest at 10% per annum from the date of service of the Award until Award is paid in full.
2. Respondent, John S. Kuhn, is solely liable for and shall pay to Claimant, Citigroup Global Markets, Inc., f/k/a Salomon Smith Barney, Inc., the sum of \$1,000.00 as reimbursement for the non-refundable NASD Dispute Resolution filing fee.
3. Pursuant to the parties' stipulation, Respondent John S. Kuhn is ordered to provide to Citigroup, the laptop used while he was employed at Citigroup. Citigroup shall, at their risk and expense, purge any information covered by the Confidentiality Agreement, and shall, within 45 days of receipt, return the laptop and desktop computer, which may also be purged as set forth above, to Kuhn. At the time that Kuhn provides his laptop for inspection and purging, Citigroup shall provide to Kuhn his artwork and other personal items that remained on the premises at Citigroup when Kuhn left.
4. Parties shall all bear their own costs, including attorneys' fees, except as specified herein.
5. 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	= \$ 1,000.00
--------------------------	---------------

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Citigroup Global Markets, Inc. and Wachovia Securities Financial Network are parties and are assessed the following:

Citigroup Global Markets, Inc.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

Wachovia Securities Financial Network

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

Citigroup Global Markets, Inc. is assessed:

Injunctive relief surcharge	= \$ 2,500.00
-----------------------------	---------------

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 @ \$1,125.00	= \$ 1,125.00
Pre-hearing conference: March 15, 2004 1 session	

Two (2) Hearing sessions @ \$1,125.00	= \$ 2,250.00
Hearing Date July 8, 2004 2 sessions	

Total Forum Fees	= \$ 3,375.00
------------------	---------------

1. The Panel has assessed 50% of the total forum fees in the amount of \$1,687.50 solely to Claimant, Citigroup Global Markets, Inc., f/k/a Salomon Smith Barney, Inc.
2. The Panel has assessed 50% of the total forum fees in the amount of \$1,687.50 solely to Respondent John S. Kuhn.

Fee Summary

1. Claimant, Citigroup Global Markets, Inc. is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Injunctive Relief Fees	= \$ 2,500.00
Forum Fees	= \$ 1,687.50
Total Fees	= \$10,387.50
Less payments	= \$ 9,825.00
Balance Due NASD Dispute Resolution	= \$ 562.50

2. Respondent, Wachovia Securities Financial Network, is solely liable for:

Member Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent, John S. Kuhn, is solely liable for:

Forum Fees	= \$ 1,687.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,687.50

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

ARBITRATION PANEL

Richard K. Zerr, Esq.	-	Public Arbitrator, Presiding Chairperson
Michael L. Lyons, Esq.	-	Public Arbitrator
Lawrence R. Goldberg, JD	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Richard K. Zerr, Esq.
Public Arbitrator, Presiding Chairperson

7/19/04
Signature Date

Michael L. Lyons, Esq.
Public Arbitrator

7/16/04
Signature Date

Lawrence R. Goldberg, JD
Non-Public Arbitrator

7/15/04
Signature Date

7/19/04
Date of Service (For NASD Dispute Resolution office use only)

Fee Summary

1. Claimant Citigroup Global Markets, Inc. is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Injunctive Relief Fees	= \$ 2,500.00
Forum Fees	= \$ 1,687.50
Total Fees	= \$10,387.50
Less payments	= \$ 9,825.00
Balance Due NASD Dispute Resolution	= \$ 562.50

2. Respondent Wachovia Securities Financial Network, is solely liable for:

Member Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent John S. Kuhn, is solely liable for:

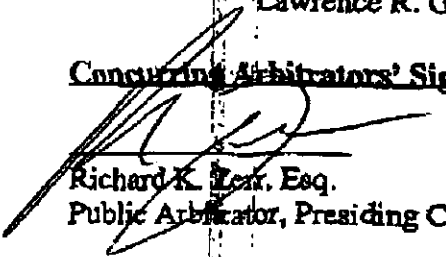
Forum Fees	= \$ 1,687.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,687.50

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

ARBITRATION PANEL

Richard K. Zerr, Esq.	-	Public Arbitrator, Presiding Chairperson
Michael L. Lyons, Esq.	-	Public Arbitrator
Lawrence R. Goldberg, JD	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Richard K. Zerr, Esq.
Public Arbitrator, Presiding Chairperson

7/19/04
Signature Date

Michael L. Lyons, Esq.
Public Arbitrator

Signature Date

Lawrence R. Goldberg, JD
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

Fee Summary:

1. Claimant, Citigroup Global Markets, Inc. is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Injunctive Relief Fees	= \$ 2,500.00
Forum Fees	= \$ 1,687.50
<u>Total Fees</u>	<u>= \$10,387.50</u>
<u>Less payments</u>	<u>= \$ 9,825.00</u>
Balance Due NASD Dispute Resolution	= \$ 562.50

2. Respondent, Wachovia Securities Financial Network, is solely liable for:

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

3. Respondent, John S. Kuhn, is solely liable for:

Forum Fees	= \$ 1,687.50
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,687.50

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

ARBITRATION PANEL

Richard K. Zerr, Esq.	-	Public Arbitrator, Presiding Chairperson
Michael L. Lyons, Esq.	-	Public Arbitrator
Lawrence R. Goldberg, JD	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Richard K. Zerr, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Michael L. Lyons, Esq.
Public Arbitrator

7-16-04
Signature Date

Lawrence R. Goldberg, JD
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

Fee Summary

1. Claimant, Citigroup Global Markets, Inc. is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Injunctive Relief Fees	= \$ 2,500.00
Forum Fees	= \$ 1,687.50
Total Fees	= \$10,387.50
Less payments	= \$ 9,825.00
Balance Due NASD Dispute Resolution	= \$ 562.50

2. Respondent, Wachovia Securities Financial Network, is solely liable for:

Member Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent, John S. Kuhn, is solely liable for:

Forum Fees	= \$ 1,687.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,687.50

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

ARBITRATION PANEL

Richard K. Zerr, Esq.	-	Public Arbitrator, Presiding Chairperson
Michael L. Lyons, Esq.	-	Public Arbitrator
Lawrence R. Goldberg, JD	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Richard K. Zerr, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Michael L. Lyons, Esq.
Public Arbitrator

Signature Date



Lawrence R. Goldberg, JD
Non-Public Arbitrator

7-15-04

Signature Date

Date of Service (For NASD Dispute Resolution office use only)