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

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In the Matter of the Arbitration Between:

Names of the Claimants

Cleopatra M. Abdou  
Nefertiti B. Abdou

Case Number: 03-03877

Names of the Respondents

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

Hearing Site: Tampa, Florida

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

**REPRESENTATION OF PARTIES**

For Cleopatra M. Abdou and Nefertiti B. Abdou, hereinafter collectively referred to as "Claimants": R. Nathan Hightower, Esq., MacFarlane Ferguson & McMullen, Tampa, Florida.

For Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. ("Citigroup") and Edward J. Warticki ("Warticki"), hereinafter collectively referred to as "Respondents": Joseph C. Coates, Esq. and Neil B. Solomon, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida.

**CASE INFORMATION**

Statement of Claim filed: May 28, 2003.

Claimants signed the Uniform Submission Agreement: May 15, 2003.

Statement of Answer filed by Respondents on or about: December 12, 2003.

Respondent Citigroup signed the Uniform Submission Agreement: January 29, 2003.

Respondent Warticki signed the Uniform Submission Agreement: April 2, 2004.

**CASE SUMMARY**

Claimants alleged the following causes of action: 1) breach of fiduciary duty; 2) negligence; and 3) failure to supervise. The causes of action relate to investments in the Alliance World Dollar Government Fund II and High Income Opportunity Fund, Inc.

Unless specifically admitted their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

### **RELIEF REQUESTED**

Claimants requested: 1) compensatory damages in the amount of \$130,000.00 as to Claimant Cleopatra M. Abdou; 2) compensatory damages in the amount of \$120,000.00 as to Claimant Nefertiti B. Abdou; 3) punitive damages in the amount of \$10,000.00; 4) interest; 4) costs; 5) attorneys' fees; and 6) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents requested: 1) dismissal of the Statement of Claim in its entirety; and 2) expungement of all reference to the above captioned arbitration from Respondent Warticki's registration records maintained by the NASD Central Registration Depository ("CRD").

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

On or about July 9, 2004, Claimants filed their unopposed motion to adjourn the evidentiary hearing scheduled for July 28 – 29, 2004. On or about July 23, 2004, the Panel: 1) granted the motion; 2) adjourned the evidentiary hearing; and 3) waived the adjournment fee in the amount of \$1,125.00.

On or about August 15, 2005, Respondents filed their Motion to Compel. On or about August 16, 2005, Claimants filed their Response to Respondents' Motion to Compel. On or about August 23, 2005, Respondents filed their Reply to Claimants' Response to Respondents' Motion to Compel. In their Reply, Respondents requested dismissal, with prejudice, of Claimants' claims. On or about August 26, 2005, the Panel denied Respondents' request for dismissal, with prejudice, of Claimants' claims.

On or about August 29, 2005, Respondents filed their Motion to Dismiss Pursuant to Rule 10304. Thereafter, the Panel denied the motion.

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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are denied in their entirety.
2. Each party shall bear its own costs and attorneys' fees.
3. Respondent Warticki's request for expungement is denied.
4. Any and all claims for relief, including Claimants' request for punitive damages, not specifically addressed herein are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

#### **Filing Fees**

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 300.00

#### **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. Accordingly, Respondent Citigroup is a member firm and a party.

Member surcharge = \$1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,750.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

#### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

There were no three-day cancellation fees assessed during these proceedings.

#### **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.

There were no injunctive relief fees assessed during these proceedings.

#### **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 a single arbitrator @ \$450.00 per session = \$ 450.00

Pre-hearing conference: July 13, 2004 1 session

Two (2) Pre-hearing sessions with Panel @ \$1,125.00 per session = \$2,250.00

Pre-hearing conferences:	April 12, 2004	1 session	
	August 26, 2005	1 session	
Five (5) Hearing sessions @ \$1,125.00 per session			= \$5,625.00
Hearing Dates:	August 31, 2005	3 sessions	
	September 1, 2005	2 sessions	
<hr/> Total Forum Fees			= \$8,325.00

The Panel has assessed the total forum fees in the amount of \$8,325.00 jointly and severally to Respondents.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

**Fee Summary**

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$ 300.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Citigroup is solely liable for:

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

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$8,325.00
Total Fees	= \$8,325.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$8,325.00

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

**ARBITRATION PANEL**

*James R. Kennedy, Jr., Esq.*

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*Public Arbitrator, Presiding Chairperson*

*George K. Beardsley*  
*Joseph D. Valenti*

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*Public Arbitrator*  
*Non-Public Arbitrator*

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/s/\_\_\_\_\_  
James R. Kennedy, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
September 7, 2005  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
George K. Beardsley  
Public Arbitrator

\_\_\_\_\_  
September 7, 2005  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Joseph D. Valenti  
Non-Public Arbitrator

\_\_\_\_\_  
September 7, 2005  
Signature Date

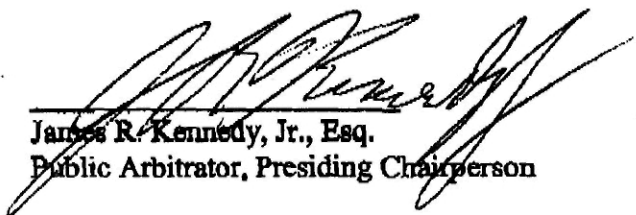
September 8, 2005  
Date of Service (For NASD Dispute Resolution office use only)

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George K. Beardsley  
Joseph D. Valenti

- *Public Arbitrator*  
- *Non-Public Arbitrator*

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James R. Kennedy, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

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

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George K. Beardsley  
Public Arbitrator

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Signature Date

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Joseph D. Valenti  
Non-Public Arbitrator

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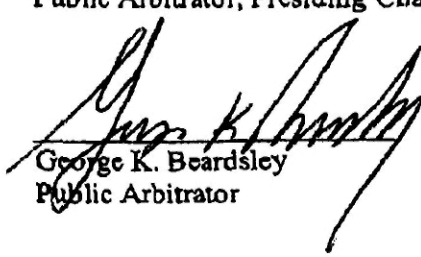
George K. Beardsley  
Joseph D. Valenti

- Public Arbitrator  
- Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

James R. Kennedy, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date

  
George K. Beardsley  
Public Arbitrator

9/7/05  
Signature Date

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Joseph D. Valenti  
Non-Public Arbitrator

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Public Arbitrator  
Non-Public Arbitrator

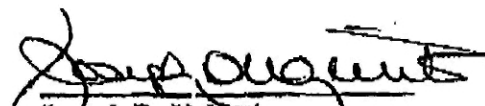
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Public Arbitrator, Presiding Chairperson

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George K. Beardsley  
Public Arbitrator

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Signature Date

  
\_\_\_\_\_  
Joseph D. Valenti  
Non-Public Arbitrator

Sept 7 - 2003  
Signature Date

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