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

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In the Matter of the Arbitration Between:

Names of the Claimants

Robert Nix and Josephine Nix

Case Number: 03-03974

Names of the Respondents

Salomon Smith Barney, Inc., Lisa  
Kaye and Paul Abrams

Hearing Site: Boca Raton, Florida

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

**REPRESENTATION OF PARTIES**

For Robert Nix and Josephine Nix, hereinafter collectively referred to as "Claimants": James Richard Hooper, Esq., James Richard Hooper, P.A., Orlando, Florida.

For Salomon Smith Barney, Inc. ("SSB"), Lisa Kaye ("Kaye") and Paul Abrams ("Abrams"), hereinafter collectively referred to as "Respondents": Richard L. Martens, Esq. and Matthew N. Thibaut, Esq., Boose Casey Ciklin Lubitz Martens McBane & O'Connell, West Palm Beach, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: June 2, 2003.

Claimants signed the Uniform Submission Agreement: May 1, 2003.

Answer, Motion to Dismiss and Affirmative Defenses filed by Respondents on or about: July 31, 2003.

Respondents did not file executed Uniform Submission Agreements.

**CASE SUMMARY**

Claimants asserted the following causes of action: unsuitability; negligence; breach of contract; violations of industry rules; respondeat superior; failure to supervise; breach of fiduciary duty; and, fraudulent misrepresentations. The causes of action relate to the purchase and sale of unspecified securities products in Claimants' accounts.

Respondents denied Claimants' allegations and denied any liability for any alleged monetary damages. In addition, Respondents asserted a motion to dismiss on the following bases: Respondent Kaye did not recommend any of the investments at the inception of the accounts; Respondent Kaye did not have an ongoing duty to monitor Claimants' nondiscretionary accounts; and, the Statement of Claim was devoid of any allegations establishing a casual connection to Claimants' purported damages.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$58,527.68, punitive damages, attorney's fees, costs and any other relief deemed just and proper.

Respondents requested that the Statement of Claim be dismissed in its entirety, that the matter be expunged from the NASD Central Registration Depository ("CRD") records of Respondents Kaye and Abrams and that all costs be assessed against Claimants.

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

Respondents did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, are bound by the determinations of the Panel on all issues submitted.

On or about March 11, 2004, Claimants notified NASD Dispute Resolution that the claims against Respondent Kaye were voluntarily dismissed, with prejudice.

On or about September 20, 2004, Claimants notified NASD Dispute Resolution that this matter had settled.

On or about September 27, 2004, the parties submitted a proposed Stipulated Award with a request that the Panel enter the Stipulated Award expunging this matter from Respondents Kaye and Abrams' NASD CRD records.

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

### **AWARD**

After considering the pleadings, the proposed Stipulated Award and the record in this matter, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimants' withdrawal of their claims against Respondents, with prejudice, is accepted and Respondents are dismissed from this matter.

This matter involved disputed claims and was settled by the parties prior to the submission of evidence by any party and prior to the final arbitration hearing. No evidence of any wrongdoing by Respondents was ever submitted to the Panel by any party. As such, the Panel recommends the expungement of all references to the above captioned arbitration from Respondents Kaye and Abrams' registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Kaye and Abrams must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

### **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 = \$ 225.00

#### **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 persons at the time of the events giving rise to the dispute. In this matter, the member firm Salomon Smith Barney, Inc. is a party.

Member surcharge = \$1,100.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$1,700.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter.

#### **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:

No three-day cancellation fees were incurred in this matter.

#### **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.

No injunctive relief fees were incurred in this matter.

#### **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 the Panel @ \$750.00 = \$ 750.00

Pre-hearing conference: November 25, 2003 1 session

Total Forum Fees = \$ 750.00

The Panel has assessed \$375.00 of the forum fees jointly and severally to Claimants.

The Panel has assessed \$375.00 of the forum fees jointly and severally to Respondents SSB and Abrams.

**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 are not limited to: additional copies of arbitrator awards; copies of audio transcripts; retrieval of documents from archives; interpreters; and, security.

No administrative costs were incurred in this matter.

**Fee Summary**

Claimants are jointly and severally liable for:

|                                     |             |
|-------------------------------------|-------------|
| Initial Filing Fee                  | = \$ 225.00 |
| Forum Fees                          | = \$ 375.00 |
| Total Fees                          | = \$ 600.00 |
| Less payments                       | = \$ 600.00 |
| Balance Due NASD Dispute Resolution | = \$ 0.00   |

Respondent SSB is solely liable for:

|                                     |               |
|-------------------------------------|---------------|
| Member Fees                         | = \$ 3,550.00 |
| Total Fees                          | = \$ 3,550.00 |
| Less payments                       | = \$ 3,550.00 |
| Balance Due NASD Dispute Resolution | = \$ 0.00     |

Respondents SSB and Abrams are jointly and severally liable for:

|                                     |             |
|-------------------------------------|-------------|
| Forum Fees                          | = \$ 375.00 |
| Total Fees                          | = \$ 375.00 |
| Less payments                       | = \$ 375.00 |
| Balance Due NASD Dispute Resolution | = \$ 0.00   |

**ARBITRATION PANEL**

|                           |   |  |
|---------------------------|---|--|
| Matthew V. Rigg, CFP, MIB | - | Public Arbitrator, Presiding Chairperson |
| Sheldon Glassberg, Esq.   | - | Public Arbitrator                        |
| George D. Lambert, III    | - | Non-Public Arbitrator                    |

**Concurring Arbitrators' Signatures**

/s/

10/29/04

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Matthew V. Rigg, CFP, MIB  
Public Arbitrator, Presiding Chairperson

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

/s/

10/29/04

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Sheldon Glassberg, Esq.  
Public Arbitrator

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

/s/

11/03/04

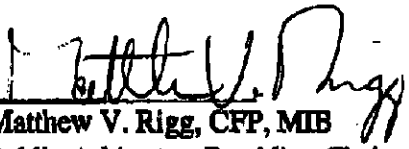
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George D. Lambert, III  
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Signature Date

11/04/04

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

**Concurring Arbitrators' Signatures**

  
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Public Arbitrator, Presiding Chairperson

10/29/04  
Signature Date

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Sheldon Glassberg, Esq.  
Public Arbitrator

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George D. Lambert, III  
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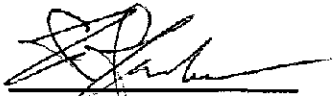
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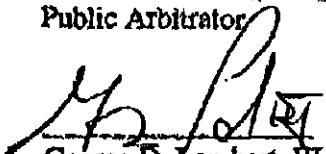
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