

**STIPULATED AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimants

Helen and Elizabeth Gurklies

and

03-04198  
Kansas City, Missouri

Name of Respondents

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

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

**REPRESENTATION OF PARTIES**

Helen and Elizabeth Gurklies ("Claimants") were represented by Diane A. Nygaard, Esq., The Nygaard Law Firm, Leawood, Kansas and Robert D. Kroeker, Esq., Martin, Leigh, Laws & Fritzlen, P.C., Kansas City, Missouri.

Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc. ("Citigroup") and Daniel Raymond Agee ("Agee"), hereinafter collectively referred to as "Respondents", were represented by Jerry M. Santangelo, Esq. and August H. Schupp, Esq., Neal, Gerber & Eisenberg LLP, Chicago, Illinois.

**CASE INFORMATION**

The Statement of Claim was filed on or about June 9, 2003. The Submission Agreement of Claimants was signed on or about May 15, 2003.

A joint Statement of Answer was filed by Respondents on or about October 28, 2003. The Submission Agreement of Respondent Citigroup was signed on or about October 17, 2003.

**CASE SUMMARY**

Claimants asserted the following causes of action: negligence; violation of NASD Rules of Fair Practice; breach of contract; breach of fiduciary duty; violation of the Ohio Prudent Investor Act; and violation of the Ohio Securities Act.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the

Statement of Claim.

**RELIEF REQUESTED**

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$250,000.00
Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Non-Monetary Relief	Unspecified

Respondents requested dismissal of the Statement of Claim in its entirety. Respondents also requested the expungement of this claim from the CRD records of Respondent Agee.

**OTHER ISSUES CONSIDERED & DECIDED**

Respondent Daniel Agee did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim is bound by the determination of the arbitration panel on all issues submitted.

The parties advised NASD Dispute Resolution that they entered into an agreement to settle this matter on certain terms and conditions set forth in a confidential settlement agreement.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies. The parties have agreed to receive conformed copies of the award while the originals remain on file with the NASD Dispute Resolution (the "NASD").

**AWARD**

After considering the pleadings and the stipulation of the parties, but without making any findings of fact or conclusions of law, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination and find as follows:

1. Any and all claims asserted in this matter against individual Respondent Daniel Agree have been withdrawn by Claimants and are hereby dismissed with prejudice.
2. All claims against Respondent Citigroup are hereby dismissed with prejudice pursuant to a settlement reached between the parties.

3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Daniel Agee's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Daniel Agee must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
5. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

### **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	\$ 300.00
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#### **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. In this matter, the member firm is Citigroup Global Markets, Inc., f/k/a Salomon Smith Barney Inc.

Member surcharge	\$ 1,700.00
Pre-hearing process fee	\$ 750.00
Hearing process fee	<u>\$ 2,750.00</u>
Total Member Fees	\$ 5,200.00

**Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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	x	\$ 450.00	\$ 450.00
Pre-hearing conference:	7/9/2004	1 session	
One (1) Pre-hearing session with Panel	x	\$ 1,125.00	\$ 1,125.00
Pre-hearing conference:	6/23/2004	1 session	
Total Forum Fees			\$ 1,575.00

The Arbitration Panel has assessed the following forum fees jointly and severally to Claimants

\$ 787.50

The Arbitration Panel has assessed the following forum fees jointly and severally to Respondents Citigroup and Agee

\$ 787.50

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Pursuant to NASD Code of Arbitration Procedure Rule 10332(f):

NASD is retaining Claimant's Hearing Session Deposit of: \$ 1,125.00

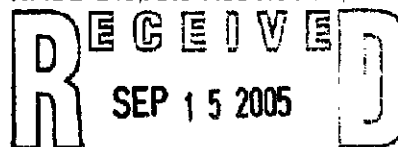
**FEE SUMMARY**

Claimants shall be and hereby are jointly and severally liable for:

Initial Filing Fee	\$ 300.00
Retained Hearing Deposit	\$ 337.50
Forum Fees	\$ 787.50
Total Fees	\$ 1,425.00
Less Payments	\$ 1,425.00
Balance Due NASD Dispute Resolution	\$ 0.00

Respondent, Citigroup, shall be and hereby is liable for:

Member Fee	\$ 5,200.00
Total Fees	\$ 5,200.00
Less Payments	\$ 5,200.00
Balance Due NASD Dispute Resolution	\$ 0.00



Respondents, Citigroup and Agee, shall be and hereby are jointly and severally liable for:


Forum Fees	\$	787.50
Total Fees	\$	787.50
Less Payments	\$	787.50
Balance Due NASD Dispute Resolution	\$	0.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Michael D. Fitzgerald, Esq. - Public Arbitrator, Presiding Chair  
James A. Hayes - Public Arbitrator  
Will B. Tschudy - Non-Public Arbitrator

Concurring Arbitrators:

  
Michael D. Fitzgerald, Esq.  
Public Arbitrator, Presiding Chair

9/12/05  
Signature Date

\_\_\_\_\_  
James A. Hayes  
Public Arbitrator

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

\_\_\_\_\_  
Will B. Tschudy  
Non-Public Arbitrator

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

9/16/05  
Date of Service (For NASD office use only)

Respondents, Citigroup and Agee, shall be and hereby are jointly and severally liable for:

Forum Fees	\$	787.50
Total Fees	\$	787.50
Less Payments	\$	787.50
Balance Due NASD Dispute Resolution	\$	0.00

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**ARBITRATION PANEL**

Michael D. Fitzgerald, Esq. - Public Arbitrator, Presiding Chair

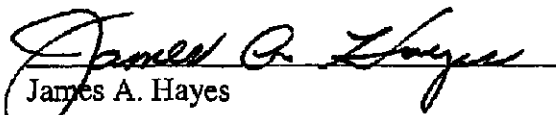
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Michael D. Fitzgerald, Esq.  
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NASD Dispute Resolution  
Arbitration No. 03-04198  
Stipulated Award Page 5 of 5

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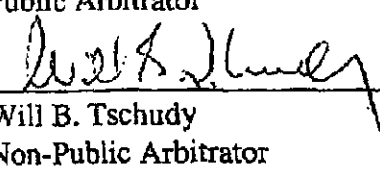
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James A. Hayes  
Public Arbitrator

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Signature Date

  
\_\_\_\_\_  
Will B. Tschudy  
Non-Public Arbitrator

Sept 12, 2005  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)