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

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In the Matter of the Arbitration Between:

Name of the Claimant

Hector Perez Perez

Case Number: 03-04537

Names of the Respondents

Salomon Smith Barney, Inc.

Dario Suarez

Hearing Site: San Juan, Puerto Rico

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

**REPRESENTATION OF PARTIES**

For Hector Perez Perez, hereinafter referred to as "Claimant": Juan C. Bigas, Esq., Bigas & Bigas, Ponce, Puerto Rico.

For Salomon Smith Barney, Inc. ("SSB") and Dario Suarez ("Suarez"), hereinafter collectively referred to as "Respondents": Raul Sanchez, First Vice President and Associate General Counsel, Citigroup Global Markets, Inc., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: September 8, 2003.

Claimant signed the Uniform Submission Agreement on: March 10, 2003.

Statement of Answer filed on or about: December 17, 2003.

Respondents signed but did not date the Uniform Submission Agreements.

**CASE SUMMARY**

Claimant alleged the following causes of action: 1) unauthorized trading; 2) unsuitability; and 3) breach of contract. The causes of action relate to the purchase of unspecified shares of stock in Claimant's account.

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

**RELIEF REQUESTED**

Claimant requested: 1) compensatory damages in the amount of \$5,655.67; 2) interest; 3) costs and attorneys' fees in the amount of \$2,000.00; and 4) punitive damages in the amount of \$20,000.00.

Respondents requested that the Statement of Claim be dismissed in all respects and an award of fees and expenses, including forum fees, and all other costs of this arbitration proceeding. In addition, Respondents

requested expungement of all references to the above captioned arbitration from Respondent Suarez' registration records maintained by the NASD Central Registration Depository ("CRD").

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

On or about June 2, 2004, the arbitrator issued an Order requiring, among other things, that Claimant post an additional \$1,000.00 with NASD Dispute Resolution.

On or about June 28 2004, pursuant to the arbitrator's June 23, 2004 Order, the evidentiary hearing scheduled for July 6, 7, and 8 was cancelled due to Claimant's failure to comply with the June 2, 2004 Order.

On or about July 30, 2004, pursuant to the arbitrator's June 23, 2004 Order, the case was dismissed without prejudice due to Claimant's failure to comply with the June 2, 2004 Order.

On or about September 29, 2004, the arbitrator issued an Order, pursuant to written confirmation that Claimant had indeed complied with the arbitrator's June 2, 2004 Order, requiring the scheduling of a pre-conference hearing with the parties to arrange new hearing dates.

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 undersigned arbitrator (the "Arbitrator") has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claim of unauthorized trading is denied.
2. Claimant's claim that investments were unsuitable is denied.
3. Claimant's claim of breach of contract is denied.
4. Respondents request for expungement of this complaint is denied, pursuant to NASD Rule 2130. Broker communication with client is necessary with regard to nature and scope of client-brokerage contract, and concerning the risk and return tradeoffs of investing.
5. The Client Agreement executed by Claimant on March 12, 1999 provides that disputes shall be resolved through NASD arbitration. "The parties are waiving their right to seek remedies in court, including the right to trial." Accordingly, the appropriate and exclusive venue for resolution of this dispute is NASD arbitration.
6. Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, 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 = \$ 150.00

#### **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 SSB is a member firm and a party.

Member surcharge = \$ 600.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$1,000.00

Total Member Fees = \$2,350.00

#### **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 arbitrator.

There were no injunctive relief fees assessed during these proceedings.

#### **Forum Fees and Assessments**

The arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Pre-hearing sessions with a single arbitrator @ \$450.00 per session	= \$1,350.00
Pre-hearing conferences:	
February 19, 2004	1 session
June 1, 2004	1 session
October 26, 2004	1 session

Four (4) Hearing sessions @ \$450.00 per session		= \$1,800.00
Hearing Dates:	February 22, 2005	2 sessions
	February 23, 2005	2 sessions
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Total Forum Fees		= \$3,150.00

The Arbitrator has assessed forum fees in the amount of \$1,575.00 to Claimant.

The Arbitrator has assessed forum fees in the amount of \$1,575.00 to Respondents, jointly and severally.

**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**

Claimant is solely liable for:

Initial Filing Fee	= \$ 150.00
<u>Forum Fees</u>	<u>= \$1,575.00</u>
Total Fees	= \$1,725.00
<u>Less payments</u>	<u>= \$1,600.00</u>
Balance Due NASD Dispute Resolution	= \$ 125.00

Respondent SSB is solely liable for:

<u>Member Fees</u>	<u>= \$2,350.00</u>
Total Fees	= \$2,350.00
<u>Less payments</u>	<u>= \$2,350.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent SSB and Respondent Suarez are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$1,575.00</u>
Total Fees	= \$1,575.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$1,575.00

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

**ARBITRATOR**

Constantine (Dean) E. Sperantsas, CFA

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Public Arbitrator

**Arbitrator's Signature**

/s/  
Constantine (Dean) E. Sperantsas, CFA  
Public Arbitrator

3/15/2005  
Signature Date

3/17/2005  
Date of Service (For NASD Dispute Resolution office use only)

Arbitrator's Signature



Constantine (Dean) E. Sperantsas, CFA  
Public Arbitrator

3/15/05  
Signature Date

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