

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

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In the Matter of the Arbitration Between:

Michael J. DiSanto (Claimant) v. Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc., Scott Polish, and Michael Mawby (Respondents)

Case Number: 03-04706

Hearing Site: Cleveland, Ohio

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Nature of the Dispute: Customer v. Member and Associated Persons.

**REPRESENTATION OF PARTIES**

Claimant Michael J. DiSanto ("DiSanto") hereinafter referred to as "Claimant": Brian P. Biggins, Esq., Brian P. Biggins & Associates Co., L.P.A., Rocky River, OH.

Respondents Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. ("Citigroup"), Scott Polish ("Polish") and Michael Mawby ("Mawby") hereinafter collectively referred to as "Respondents": Elizabeth A. Jerdonek, Esq., Ulmer & Berne, LLP, Cleveland, OH. Previously represented by: Etta M. Gumbs, Esq., Citigroup Global Markets, Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: July 7, 2003.

Claimant signed the Uniform Submission Agreement.

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

Respondent Citigroup signed the Uniform Submission Agreement: September 15, 2003.

Respondent Polish signed the Uniform Submission Agreement: September 17, 2003.

Respondent Mawby signed the Uniform Submission Agreement: September 15, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: negligence; breach of contract; breach of fiduciary duty; respondeat superior; failure to supervise; unsuitability; and omissions/misrepresentations. The causes of action relate to Federal Home Loan bonds, Adelpia Communications bonds, and various unspecified mutual funds.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested compensatory damage in the amount of \$450,000.00; attorneys' fees; punitive damages; costs; lost interest (ORC sec. 1343.03); and any other remedy the Panel deems just and equitable.

Respondents requested that Claimant's claim be denied in its entirety.

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

By letter dated July 12, 2004, Claimant notified NASD Dispute Resolution that the parties settled this matter. By letter dated July 12, 2004, the parties informed NASD Dispute Resolution that a Stipulated Award was being requested.

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**

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. Claimant's claims are dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Scott Polish'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 Polish must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Michael Mawby'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 Mawby must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
4. 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, Inc. 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, Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. is a party.

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

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

The 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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
<u>Pre-hearing conference: December 9, 2003 1 session</u>	
Total Forum Fees	= \$1,125.00

1. The Panel has assessed \$562.50 of the forum fees against Claimant.
2. The Panel has assessed \$562.50 of the forum fees jointly and severally against Respondents.

### **Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$1,125.50</u>
Total Fees	= \$1,425.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

*Pursuant to Rule 10332(f) of the Code of Arbitration Procedure, NASD is retaining the total initial amount of the hearing session deposited by the Claimant because this office*

*was notified by the parties that they settled this matter within eight business days of the first scheduled hearing session.*

2. Respondent Citigroup is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$7,387.50
<u>Refund Due Citigroup</u>	= \$2,187.50

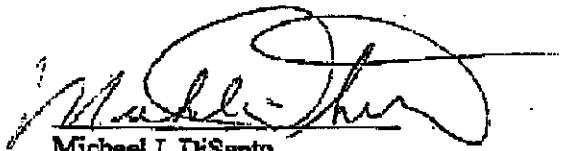
3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 562.50
<u>Total Fees</u>	= \$ 562.50
<u>Less payments</u>	= \$ 562.50
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

All balances are due and payable to NASD Dispute Resolution

NASD Dispute Resolution  
Arbitration No. 03-04706  
Award Page 5 of 6

Parties' Signatures



Michael J. DiSanto  
Claimant

7-27-04  
Signature Date

Citigroup Global Markets, Inc.  
Respondent

                      
Signature Date

Scott Polish  
Respondent

                      
Signature Date

Michael Mawby  
Respondent

                      
Signature Date

Parties' Signatures

\_\_\_\_\_  
Michael J. DiSanto  
Claimant

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

  
Citigroup Global Markets, Inc.  
Respondent

8/18/04  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Scott Polish  
Respondent

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

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Michael Mawby  
Respondent

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Signature Date

**Parties' Signatures**

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Michael J. DiSanto  
Claimant

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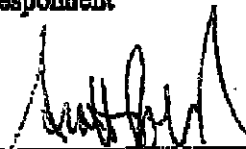
Signature Date

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Citigroup Global Markets, Inc.  
Respondent

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Signature Date



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Scott Polish  
Respondent

7-26-04

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Signature Date

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Michael Mawby  
Respondent

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Signature Date

NASD Dispute Resolution  
Arbitration No. 03-04706  
Award Page 3 of 6

**Parties' Signatures**

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Michael J. DiSanto  
Claimant

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Signature Date

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Citigroup Global Markets, Inc.  
Respondent

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Signature Date

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Scott Pollak  
Respondent

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Signature Date

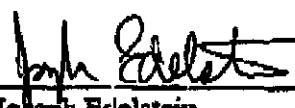
Michael Mawby  
\_\_\_\_\_  
Michael Mawby  
Respondent

7/27/04  
\_\_\_\_\_  
Signature Date

ARBITRATION PANEL

Joseph Edelstein	-	Public Arbitrator, Presiding Chair
Hartita H. Robinson, CPA	-	Public Arbitrator
Bert Cliff	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

  
\_\_\_\_\_  
Joseph Edelstein  
Public Arbitrator, Presiding Chair

1-13-05  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Hartita H. Robinson, CPA  
Public Arbitrator

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

\_\_\_\_\_  
Bert Cliff  
Non-Public Arbitrator

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

February 3, 2005  
Date of Service (For NASD office use only)

ARBITRATION PANEL

Joseph Edelstein	-	Public Arbitrator, Presiding Chair
Harlita H. Robinson, CPA	-	Public Arbitrator
Bert Cliff	-	Non-Public Arbitrator

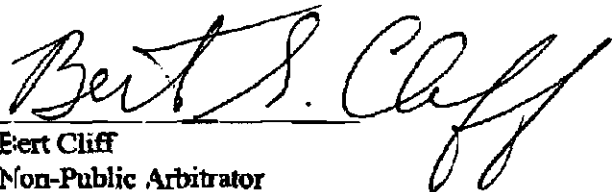
Concurring Arbitrators' Signatures

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Joseph Edelstein  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
Harlita H. Robinson, CPA  
Public Arbitrator

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

  
\_\_\_\_\_  
Bert Cliff  
Non-Public Arbitrator

1-14-05  
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Signature Date

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Date of Service (For NASD office use only)

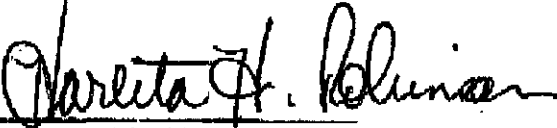
**ARBITRATION PANEL**

Joseph Edelstein	-	Public Arbitrator, Presiding Chair
Harlita H. Robinson, CPA	-	Public Arbitrator
Bert Cliff	-	Non-Public Arbitrator

**Consenting Arbitrators' Signatures**

\_\_\_\_\_  
Joseph Edelstein  
Public Arbitrator, Presiding Chair

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

  
\_\_\_\_\_  
Harlita H. Robinson, CPA  
Public Arbitrator

1/13/05  
\_\_\_\_\_  
Signature Date

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Bert Cliff  
Non-Public Arbitrator

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Signature Date

February 3, 2005  
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Date of Service (For NASD office use only)