

**NASD DISPUTE RESOLUTION AWARD**  
**NASD DISPUTE RESOLUTION**

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CASE: 03-04876

Gertrude Marks, Claimant v. Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. and Jack B. Grubman, Respondents

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**ATTORNEYS:**

For Claimant Gertrude Marks ("Claimant") appeared James Richard Hooper, Esq., of the firm Hooper & Weiss, L.L.C., Orlando, FL.

For Respondents Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. and Jack B. Grubman (collectively "Respondents") appeared Bradford D. Kaufman, Esq., of the firm Greenberg Traurig, P.A., West Palm Beach, FL.

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**NATURE OF DISPUTE:** Customer v. Member and Associated Person.

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**DATE FILED:** July 2, 2003.

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**CASE SUMMARY:** Claimant alleged causes of action under the Securities Act of 1933, Section 17(a)(2), Florida Securities and Investor Protection Act, Chapter 517.301, NASD Rule 2210(d)(1), breach of fiduciary duty to Claimant, and as a violation of the doctrine of respondeat superior. Claimant additionally alleged that Respondents' omitted to state material facts in connection with the offer and sale of WorldCom stock to Claimant.

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**ARBITRATOR'S REPORT:** "Having reviewed the record, I have concluded that there is insufficient evidence to support an individual award to Claimant. The primary cause of Claimant's loss was the fraud that WorldCom management perpetrated on the general public (including Claimant), on the securities industry (including the Respondent firm and Jack Grubman), and on its own employees. The situation was further complicated by a downturn in the stock market that resulted in a loss of confidence in securities, especially in the telecom sector. This decision is based upon a lack of direct evidence in Claimant's case in chief. Claimant relies heavily upon the investigations conducted by the New York Attorney General's Office and the Bankruptcy Court, however, these investigations indicated that Grubman's reports were accurate, that the data provided a reasonable basis for his opinions regarding the company and the trends in the industry, and that he made disclosures regarding the risks that were inherent in telecom investments. Grubman's reports were based upon public information that was available to and similarly used by other telecom analysts, and there is nothing in the record to suggest that there was any difference between Grubman's public opinions and his private opinions. Instead of presenting evidence that is specific to Claimant, Claimant presents evidence that is general to the industry and then tries to create liability by building inference upon inference. It is also noted that this decision is based upon the insufficiency of Claimant's evidence and not as an endorsement of Respondents' conduct. Indeed, Respondents practices have been addressed and dealt with in regulatory investigations and other forums. Accordingly,

All of Claimant's claims are denied, including all requests for punitive damages, interest, and attorneys' fees.

Provided further, Claimant's request to have this cause reclassified from a paper case to a full hearing is hereby denied.

Provided however, all NASD fees are assess against Citigroup Global Markets, Inc., and said Respondent is directed to reimburse Claimant for the filing fee she paid to NASD in connection with the filing of this claim."

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**Claim Data**

Claim: \$11,687.50  
Claim: Rescission  
Punitive: Unspecified  
Interest: Unspecified  
Attorney Fees: Unspecified  
Filing Fees: Unspecified  
Other: Unspecified

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**Award Data**

Award: \$.00  
Claim: Denied  
Punitive: \$.00  
Interest: \$.00  
Attorney Fees: \$.00  
Filing Fees: \$425.00  
Other: \$.00

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AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) The claims of Claimant are dismissed in their entirety. 2) All requests for rescission are denied. 3) All requests for attorney fees are denied. 4) All requests for punitive damages are denied. 5) All requests for interest are denied. 6) All other relief requests are denied. 7) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimant deposited previously. 8) Respondent Citigroup Global Markets, Inc. is liable and shall reimburse Claimant for the \$425.00 filing fee.

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OTHER FEES: Pursuant to Rule 10333 of the Code, Respondent Citigroup Global Markets, Inc. has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

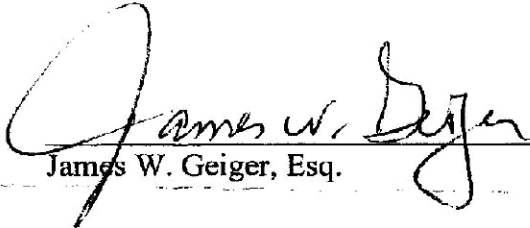
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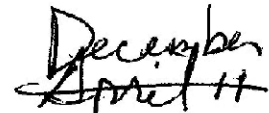
James W. Geiger, Esq.

Sole Public Arbitrator

AFFIRMATION

I, James W. Geiger, Esq., do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.

  
James W. Geiger, Esq.

  
December 11, 2004  
Signature Date

December 23, 2004  
Date of Service (For NASD-DR office use only)