

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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Jimmy Dan Kilgore

Case Number: 03-09182

Name of the Respondent  
Citigroup Global Markets, Inc.,  
f/k/a Salomon Smith Barney, Inc.,  
and Citigroup Global Markets, Inc.,  
d/b/a Smith Barney

Hearing Site: Atlanta, Georgia

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Jimmy Dan Kilgore, hereinafter referred to as "Claimant": Robert R. Riley, Jr., Esq., Riley & Jackson, P.C., Birmingham, Alabama.

For Citigroup Global Markets, Inc., f/k/a Salomon Smith Barney, Inc. and Citigroup Global Markets, Inc., d/b/a Smith Barney, hereinafter referred to as "Respondent": G. Wayne Hillis, Jr., Esq. and Michael D. Grider, Esq., Parker, Hudson, Rainer & Dobbs LLP, Atlanta, Georgia.

**CASE INFORMATION**

Statement of Claim filed on or about: December 24, 2003.

Claimant signed the Uniform Submission Agreement: December 24, 2003.

Statement of Answer filed by Respondent on or about: March 23, 2004.

Respondent signed the Uniform Submission Agreement: April 5, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of fiduciary duty; violation of Blue Sky Laws; negligence; negligent supervision; negligent misrepresentation; fraud; and, breach of contract. The causes of action relate to the purchase and sale of unspecified Class "B" mutual funds and other unspecified securities products in Claimant's account.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested actual damages of \$500,000.00-\$600,000.00 plus punitive damages for a total claim amount, including any punitive damages to be awarded, of \$1,000,000.00.

Respondent requested that the claim be denied in its entirety.

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

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

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable and shall pay to Claimant the sum of \$121,225.00.

Respondent is liable and shall pay to Claimant the sum of \$375.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

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 Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$375.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$750.00
Hearing process fee	= \$4,000.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred 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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel @ \$1,200.00	= \$1,200.00
Pre-hearing conference: June 8, 2004 1 session	

Six (6) Hearing sessions @ \$1,200.00	= \$7,200.00
Hearing Dates: September 15, 2004 2 sessions	
September 16, 2004 2 sessions	
September 17, 2004 2 sessions	

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Total Forum Fees	= \$8,400.00
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The Panel has assessed the total forum fees of \$8,400.00 to Respondent.

**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**

Claimant is solely liable for:

Initial Filing Fee	= \$375.00
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Total Fees	= \$375.00
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Less payments	= \$375.00
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Balance Due NASD Dispute Resolution	= \$0.00
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Respondent is solely liable for:

Member Fees	= \$7,000.00
Forum Fees	= \$8,400.00
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Total Fees	= \$15,400.00
Less payments	= \$7,000.00
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Balance Due NASD Dispute Resolution	= \$8,400.00

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

**ARBITRATION PANEL**

Chandler Bridges, Esq.	-	Public Arbitrator, Presiding Chair
Anne H. Orr, J.D.	-	Public Arbitrator
David T. Maddux	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/S/\_\_\_\_\_  
Chandler Bridges, Esq.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_/S/\_\_\_\_\_  
Anne H. Orr, J.D.  
Public Arbitrator

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

\_\_\_\_\_/S/\_\_\_\_\_  
David T. Maddux  
Non-Public Arbitrator

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

October 1, 2004  
Date of Service (For NASD Dispute Resolution office use only)

Respondent is solely liable for:

Member Fees	= \$7,000.00
Forum Fees	= \$8,400.00

Total Fees	= \$15,400.00
Less payments	= \$7,000.00

Balance Due NASD Dispute Resolution	= \$8,400.00
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**ARBITRATION PANEL**

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Anne H. Orr, J.D.	-	Public Arbitrator
David T. Maddux	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Chandler Bridges  
Chandler Bridges, Esq.  
Public Arbitrator, Presiding Chair

9-29-04  
Signature Date

\_\_\_\_\_  
Anne H. Orr, J.D.  
Public Arbitrator

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

\_\_\_\_\_  
David T. Maddux  
Non-Public Arbitrator

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

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

SEP. 29. 2004 6:30PM

NASD Dispute Resolution

Arbitration No. 03-09182

Award Page 4

Respondent is solely liable for:

Member Fees = \$7,000.00

Forum Fees = \$8,400.00

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Total Fees = \$15,400.00

Less payments = \$7,000.00

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Balance Due NASD Dispute Resolution = \$8,400.00

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**ARBITRATION PANEL**

Chandler Bridges, Esq.

Anne H. Orr, J.D.

David T. Maddux

Public Arbitrator, Presiding Chair

Public Arbitrator

Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Chandler Bridges, Esq.

Public Arbitrator, Presiding Chair

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Signature Date

Anne H. Orr, J.D.

Public Arbitrator

9-30-04

Signature Date

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David T. Maddux

Non-Public Arbitrator

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Signature Date

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

SEP. 29. 2004 9:41PM

NASD Dispute Resolution  
Arbitration No. 03-09182  
Award Page 4

Respondent is solely liable for:

Member Fees	= \$7,000.00
Forum Fees	= \$8,400.00
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Total Fees	= \$15,400.00
Less payments	= \$7,000.00
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**ARBITRATION PANEL**

Chandler Bridges, Esq.	-	Public Arbitrator, Presiding Chair
Anne H. Orr, J.D.	-	Public Arbitrator
David T. Maddux	-	Non-Public Arbitrator

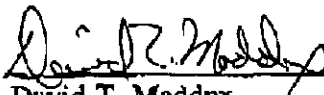
**Concurring Arbitrators' Signatures**

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Chandler Bridges, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

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Anne H. Orr, J.D.  
Public Arbitrator

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Signature Date

  
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David T. Maddux  
Non-Public Arbitrator

  
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