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

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*In the Matter of the Arbitration Between:*

Names of the Claimants

Andrea Bell, individually and as Personal  
Representative of the Estate of Alfred Bell

Case Number: 04-00060

Names of the Respondents

Merrill Lynch, Pierce, Fenner and Smith, Inc.  
John Haas  
Citigroup Global Markets, Inc. f/k/a  
Salmon Smith Barney, Inc.

Hearing Site: Boca Raton, Florida

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

**REPRESENTATION OF PARTIES**

For Andrea Bell individually and as Personal Representative of the Estate of Alfred Bell, hereinafter collectively referred to as "Claimants": Alan J. Foxman, Esq., The Law Offices of Alan J. Foxman, P.A., Boca Raton, Florida.

For Merrill Lynch, Pierce, Fenner and Smith, Inc. and John Haas, hereinafter referred to as "Respondent MLPFS" and "Respondent Haas": Craig R. Glasser, Esq., Baritz & Colman, LLP, Boca Raton, Florida.

For Citigroup Global Markets, Inc. f/k/a Salmon Smith Barney, Inc., hereinafter referred to as "Respondent Citigroup": Patricia Christiansen, Esq., Boose Casey Ciklin Lubitz Martens McBane & O'Connell, P.A., West Palm Beach, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: January 16, 2004.

Claimants signed the Uniform Submission Agreements: October 28, 2003.

Statement of Answer filed by Respondents MLPFS and Haas on or about: March 5, 2004.

Statement of Answer filed by Respondent Citigroup on or about: February 25, 2004.

Respondent MLPFS signed the Uniform Submission Agreement: January 28, 2004.

Respondent Haas did not file an executed Uniform Submission Agreement.

Respondent Citigroup signed the Uniform Submission Agreement: February 25, 2004.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of contract; unsuitability; fraud; misrepresentation; negligence; and, failure to supervise. The causes of action relate to, among

other things, the purchase and/or sale in Claimants' accounts of various common stocks, including but not limited to, the following: Oracle; Medimmune, Inc.; Biogen, Inc.; PMC Sierra, Inc.; and, Juniper Networks.

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

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

### **RELIEF REQUESTED**

Claimants requested that the Panel render an award against Respondents MLPFS and Haas, jointly and severally, for compensatory damages in the amount of \$80,000.00, interest, costs and attorneys' fees. Claimants further requested that the Panel render an award against Respondent MLPFS or Citigroup in the amount of \$6,300.00, representing the debit balance in Claimants' account.

Respondents MLPFS and Haas requested dismissal of this action in its entirety, plus all costs incurred in connection with the defense of this matter.

Respondent Citigroup requested that the Statement of Claim be dismissed, and that all costs and fees be assessed against Claimants as a sanction for wrongfully bringing Respondent Citigroup into this matter.

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

Respondent Haas did not file with NASD Dispute Resolution ("NASD") a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

On or about May 3, 2005, Claimants filed with NASD a Notice of Dismissal with Prejudice of Respondent Citigroup.

On or about August 31, 2005, Claimants filed with NASD a Notice of Dismissal with Prejudice of Respondents MLPFS and Haas. In connection with the resolution of this matter, Respondents MLPFS and Haas asserted that, because of the nature of the claims, this action should only have been filed against Respondent MLPFS, and not Respondent Haas. Accordingly, Claimants agreed to cooperate with Respondent Haas' efforts to have the action expunged from his NASD Central Registration Depository ("CRD") record. In connection with the resolution of the claims, the parties agreed that upon the satisfaction of the terms of resolution, that each of the Claimants and Respondents shall be barred from bringing any action based on or including the claims for which this action has been or could have been brought and that this matter be dismissed with prejudice as to all Respondents. The only issue presented to the Panel is this Stipulated Award relating to expungement.

On or about September 9, 2005, Respondents MLPFS and Haas filed with NASD a proposed Stipulated Award for consideration by the Panel.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

### **AWARD**

After considering the pleadings and the proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimants' withdrawal of claims is accepted and Respondents MLPFS and Haas are dismissed from this matter with prejudice.

The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Haas' registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Haas must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

### **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	= \$ 225.00
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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. Accordingly, Respondents MLPFS and Citigroup are member firms and a parties.

Respondent MLPFS' Member surcharge	= \$1,100.00
Respondent MLPFS' Pre-hearing process fee	= \$ 750.00
Respondent MLPFS' Hearing process fee	= \$1,700.00
Respondent MLPFS' Total Member Fees	= \$3,550.00

Respondent Citigroup's Member surcharge	= \$ 325.00
Respondent Citigroup's Total Member Fees	= \$ 325.00

#### **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 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 the Panel @ \$750.00/session	= \$750.00
Pre-hearing conference: November 19, 2004 1 session	

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Total Forum Fees	= \$750.00
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The Panel assessed forum fees of \$375.00 to Claimants, jointly and severally.

The Panel assessed forum fees of \$187.50 to Respondent MLPFS.

The Panel assessed forum fees of \$187.50 to Respondent Citigroup.

**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.

No administrative costs were incurred in this matter.

**Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 600.00
Less payments	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent MLPFS is solely liable for:

Member Fees	= \$3,550.00
Forum Fees	= \$ 187.50
Total Fees	= \$3,737.50
Less payments	= \$3,550.00

Balance Due NASD Dispute Resolution = \$ 187.50

Respondent Citigroup is solely liable for:

Member Fees	= \$ 325.00
<u>Forum Fees</u>	<u>= \$ 187.50</u>
Total Fees	= \$ 512.50
<u>Less payments</u>	<u>= \$ 512.50</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

**ARBITRATION PANEL**

Leslie L. Cooney, Esq.	-	Public Arbitrator, Presiding Chairperson
Sherry Puro	-	Public Arbitrator
Edward J. Gordon	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Leslie L. Cooney, Esq.  
Public Arbitrator, Presiding Chairperson

September 14, 2005  
Signature Date

/s/  
Sherry Puro  
Public Arbitrator

September 14, 2005  
Signature Date

/s/  
Edward J. Gordon  
Non-Public Arbitrator

September 14, 2005  
Signature Date

September 16, 2005  
Date of Service (For NASD Dispute Resolution office use only)

**NASD Dispute Resolution**  
**Arbitration No. 04-00060**  
**Stipulated Award Page 5**

Balance Due NASD Dispute Resolution = \$ 187.50

Respondent Citigroup is solely liable for:

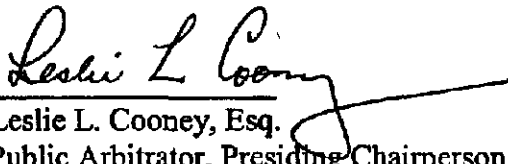
Member Fees	= \$ 325.00
Forum Fees	= \$ 187.50
Total Fees	= \$ 512.50
Less payments	= \$ 512.50
Balance Due NASD Dispute Resolution	= \$ 0.00


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**ARBITRATION PANEL**

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Sherry Puro	-	Public Arbitrator
Edward J. Gordon	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Leslie L. Cooney, Esq.  
Public Arbitrator, Presiding Chairperson

  
Sept 14, 2008  
Signature Date

\_\_\_\_\_  
Sherry Puro  
Public Arbitrator

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

\_\_\_\_\_  
Edward J. Gordon  
Non-Public Arbitrator

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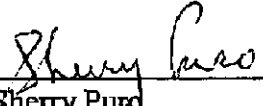
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Edward J. Gordon	-	Non-Public Arbitrator

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\_\_\_\_\_  
Leslie L. Cooney, Esq.  
Public Arbitrator, Presiding Chairperson

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

  
\_\_\_\_\_  
Sherry Puro  
Public Arbitrator

9/24/05  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Edward J. Gordon  
Non-Public Arbitrator

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

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

**RECEIVED**

SEP 16 2005  
= \$ 187.50

**FL ARBITRATION**

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Forum Fees	= \$ 187.50
Total Fees	= \$ 512.50
Less payments	= \$ 512.50
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**ARBITRATION PANEL**

Leslie L. Cooney, Esq.	-	Public Arbitrator, Presiding Chairperson
Sherry Puro	-	Public Arbitrator
Edward J. Gordon	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Leslie L. Cooney, Esq.  
Public Arbitrator, Presiding Chairperson

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

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Sherry Puro  
Public Arbitrator

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Signature Date

  
\_\_\_\_\_  
Edward J. Gordon  
Non-Public Arbitrator

9/14/05  
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Signature Date

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