

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

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In the Matter of the Arbitration Between:

George B. Schenck, Claimant v. Citigroup Global Markets, Inc. and Paul David Babaz,  
Respondents

Case Number: 04-00183

Hearing Site: Reno, Nevada

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

**REPRESENTATION OF PARTIES**

For Claimant:

Brad M. Johnston, Esq.  
Hale Lane Peek Dennison  
and Howard  
Reno, Nevada

For Respondents:

Nancy H. Baughan, Esq.  
Parker, Hudson, Rainer &  
Dobbs, LLP  
Atlanta, Georgia

**CASE INFORMATION**

Statement of Claim filed: January 9, 2004

Claimant's Uniform Submission Agreement signed: January 21, 2004

Joint Statement of Answer filed by Respondents Citigroup Global Markets, Inc. and Paul David Babaz: April 30, 2004

Respondent Paul David Babaz's Uniform Submission Agreement signed: May 3, 2004

**CASE SUMMARY**

Claimant alleged failure to execute and misrepresentation. Claimant's allegations involved the purchase and sale of United Parcel Service ("UPS") puts.

Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested \$450,000.00 in compensatory damages, unspecified punitive damages, pre- and post-judgment interest and costs, including attorney's fees.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety.

**OTHER ISSUES CONSIDERED AND DECIDED**

On April 26, 2005, Respondent Citigroup Global Markets, Inc. signed a copy of Respondent Paul David Babaz's Uniform Submission Agreement, thereby making the Uniform Submission Agreement a joint Uniform Submission Agreement signed by both Respondents.

On April 14, 2005, Claimant filed a Motion in Limine for the Admission of Polygraph Examination Results. On April 19, 2005, Respondents filed an Opposition to Claimant's Motion in Limine for the Admission of Polygraph Examination Results. At the evidentiary hearing, the Panel denied Claimant's motion.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Paul David Babaz's registration records maintained by NASD's Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Paul David Babaz must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 4) All other relief requested and not expressly granted is denied.

**FEES**

Pursuant to the Code, the following fees are assessed:

**Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$ 300.00

**Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Citigroup Global Markets, Inc. is a party, and the following fees are assessed:

Member Surcharge = \$ 1,700.00

Pre-Hearing Process Fee = \$ 750.00

Hearing Process Fee = \$ 2,750.00

**Total Member Fees** = \$ 5,200.00

**Adjournment Fees**

The following adjournment fees are assessed:

October 12-14, 2004, adjournment requested by Claimant and Respondents = \$ 1,125.00

The Panel assessed the adjournment fee 50% to Claimant and 50% to Respondents jointly and severally.

**Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

One (1) pre-hearing conference session with the Panel @ \$1,125.00/session = \$ 1,125.00

Pre-hearing conferences: July 6, 2004 1 session

Six (6) hearing sessions @ \$1,125.00/session = \$ 6,750.00

Hearings: April 26, 2005 2 sessions

April 27, 2005 3 sessions

April 28, 2005 1 session

**Total Forum Fees** = \$ 7,875.00

1. The Panel assessed \$3,937.50 of the forum fees to Claimant George B. Schenck.

2. The Panel assessed \$3,937.50 of the forum fees to Respondent Citigroup Global Markets, Inc.

**Fee Summary**

1. Claimant George B. Schenck is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 562.50
<u>Forum Fees</u>	<u>= \$ 3,937.50</u>
Total Fees	= \$ 4,800.00
<u>Less payments</u>	<u>=(1,700.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 3,100.00</b>

2. Respondent Citigroup Global Markets, Inc. is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	<u>= \$ 3,937.50</u>
Total Fees	= \$ 9,137.50
<u>Less payments</u>	<u>=(7,950.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,187.50</b>

3. Respondents Citigroup Global Markets, Inc. and Paul David Babaz are charged jointly and severally with the following fees:

Adjournment Fee	= \$562.50
<u>Less payments by Citigroup Global Markets, Inc.</u>	<u>=(562.50)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= 0.00</b>

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

**ARBITRATION PANEL**

***Helmut F. Furth, Esq.***  
***Chair***

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***Non-Public Arbitrator, Presiding***

***Eugene R. Nielson***

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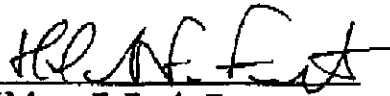
***Public Arbitrator***

***Willy Nordwind, Jr., Esq.***

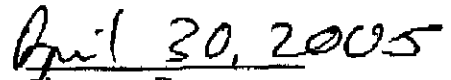
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***Public Arbitrator***

**Concurring Arbitrators' Signatures**



**Helmut F. Furth, Esq.**  
**Chair, Non-Public Arbitrator**



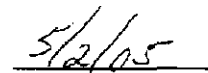
**Signature Date**

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**Eugene R. Nielson**  
**Public Arbitrator**

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**Signature Date**

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**Willy Nordwind, Jr., Esq.**  
**Public Arbitrator**

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**Signature Date**

  
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**Date of Service**

NASD Dispute Resolution  
Arbitration No. 04-00183  
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ARBITRATION PANEL

<i>Helmut F. Furth, Esq.</i>	-	<i>Non-Public Arbitrator, Presiding Chair</i>
<i>Eugene R. Nielson</i>	-	<i>Public Arbitrator</i>
<i>Willy Nordwind, Jr., Esq.</i>	-	<i>Public Arbitrator</i>

Concurring Arbitrators' Signatures

Helmut F. Furth, Esq.  
Chair, Non-Public Arbitrator

Signature Date

*Eugene R. Nielson*  
Eugene R. Nielson  
Public Arbitrator

*April 29, 2005*  
Signature Date

Willy Nordwind, Jr., Esq.  
Public Arbitrator

Signature Date

*5/2/05*  
Date of Service

**ARBITRATION PANEL**

<i>Helmut F. Furth, Esq.</i>	-	<i>Non-Public Arbitrator, Presiding Chair</i>
<i>Eugene R. Nielson</i>	-	<i>Public Arbitrator</i>
<i>Willy Nordwind, Jr., Esq.</i>	-	<i>Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

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Helmut F. Furth, Esq.  
Chair, Non-Public Arbitrator

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Signature Date

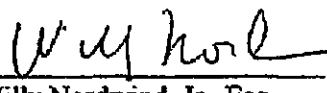
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Eugene R. Nielson  
Public Arbitrator

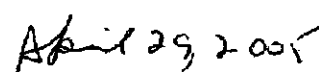
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Signature Date

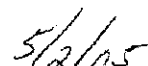
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 /  
Willy Nordwind, Jr., Esq.  
Public Arbitrator

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Signature Date

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Date of Service