

**Stipulated Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant

Joseph M. Vitale

Case Number: 04-01143

Names of the Respondents

Citigroup Global Markets, Inc.  
f/k/a Salomon Smith Barney, Inc.,  
Andrew Guzzetti, and  
Lawrence Liebman

Hearing Site: Philadelphia, Pennsylvania

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

**REPRESENTATION OF PARTIES**

Claimant Joseph M. Vitale ("Vitale"), hereinafter referred to as "Claimant", was represented by Philip J. LiVolsi, Attorney at Law, Marlton, New Jersey.

Respondents Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. ("Citigroup"), Andrew Guzzetti ("Guzzetti") and Lawrence Liebman ("Liebman"), hereinafter collectively referred to as "Respondents", were represented by Hugo A. Hilgendorff IV, Esq., Bressler, Amery & Ross, P.C., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on February 19, 2004.

Claimant signed the Uniform Submission Agreement on February 12, 2004.

Statement of Answer and Counterclaim filed by Respondents on June 14, 2004.

A representative of Respondent Citigroup executed the Uniform Submission Agreement on June 17, 2004.

Respondent Guzzetti signed the Uniform Submission Agreement on June 17, 2004.

Respondent Liebman signed the Uniform Submission Agreement on May 18, 2004.

Claimant did not file an Answer to the Counterclaim.

**CASE SUMMARY**

Claimant asserted the following cause of action: unauthorized liquidation of Claimant's account. The cause of action relates to the sale of various securities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim

upon which relief may be granted; Claimant's claims are barred by the doctrine of laches, waiver, notification and estoppel; and Claimant's claims are barred by the statute of limitations and the Claimant's failure to mitigate damages.

### **RELIEF REQUESTED**

Claimant requested the following damages:

Compensatory Damages	\$685,404.65
Interest	amount unspecified
Other Costs	amount unspecified

Respondents requested that Claimant's Statement of Claim be dismissed and that the Arbitration Panel (the "Panel") enter an order expunging all references to this claim from Respondents Liebman and Guzzetti's registration records maintained by the Central Registration Depository ("CRD").

Respondent Citigroup further requested that it be awarded \$30,800.61 plus interest, attorneys' fees and costs on its Counterclaim.

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

In May 2005, the Parties fully and finally resolved all claims by and between them. Therefore, the Parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

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

### **AWARD**

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant Joseph M. Vitale's claims against Respondents are dismissed with prejudice;
2. Respondent Citigroup's Counterclaim is dismissed with prejudice;
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents Guzzetti and Liebman's respective 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, Respondents Guzzetti and Liebman must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
4. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and

5. Any and all relief not specifically addressed herein is denied its entirety.

### 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	= \$ 375.00
Counter claim filing fee	= \$ 1,000.00

#### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Citigroup is a party.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 4,000.00</u>
Total Member Fees	= \$ 7,000.00

#### 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 a single arbitrator @ \$ 450.00	= \$ 450.00
Pre-hearing conference: February 22, 2005 1 session	

One (1) Pre-hearing session with Panel @ \$ 1,200.00	= \$ 1,200.00
Pre-hearing conference: September 21, 2004 1 session	
<u>Total Forum Fees</u>	<u>= \$ 1,650.00</u>

1. The Panel has assessed \$ 825.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 825.00 of the forum fees jointly and severally to Respondents.

### FEE SUMMARY

Claimant is assessed and shall pay:

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	<u>= \$ 825.00</u>
Total Fees	= \$ 1,200.00
<u>Less payments</u>	<u>= \$ 1,575.00</u>
Refund owed to Claimant	= \$ 375.00

Respondent Citigroup is assessed and shall pay:

Filing Fee	= \$ 1,000.00
Member Fees	= \$ 7,000.00
Total Fees	= \$ 8,000.00
Less payments	= \$ 8,000.00
Balance Due NASD Dispute Resolution	= \$ 00.00

Respondents are jointly and severally assessed and shall pay:

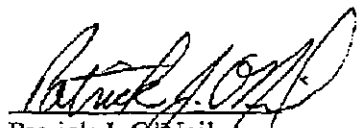
Forum Fee	= \$ 825.00
Total Fees	= \$ 825.00
Less payments	= \$ 450.00
Balance Due NASD Dispute Resolution	= \$ 375.00

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

**ARBITRATION PANEL**

Patrick J. O'Neil	-	Public Arbitrator, Presiding Chairperson
Steven Andrew Ragland, Esq.	-	Public, Panelist
Dean L. Scarpa	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Patrick J. O'Neil  
Public Arbitrator, Presiding Chairperson

07/13/05

Signature Date

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Steven Andrew Ragland, Esq.  
Public, Panelist

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

\_\_\_\_\_  
Dean L. Scarpa  
Non-Public Arbitrator, Panelist

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Signature Date

August 10, 2005  
Date of Service (For NASD Dispute Resolution office use only)

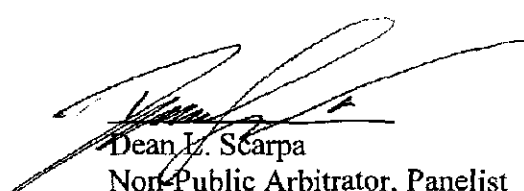
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Patrick J. O'Neil  
Public Arbitrator, Presiding Chairperson

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Signature Date

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Steven Andrew Ragland, Esq.  
Public, Panelist

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Signature Date

  
Dean L. Scarpa  
Non-Public Arbitrator, Panelist

7-18-05  
Signature Date

August 10, 2005  
Date of Service (For NASD Dispute Resolution office use only)