
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 04-01163

Michael A. De Luca, MD, IRA account
Julie A. De Luca and Michael De Luca,
tenants by the entirety, Julie De Luca
TOD M.J.M.C. & L.A. De Luca
and De Luca, LTD., Julie De Luca, IRA account

Names of the Respondents

Hearing Site: Boca Raton, Florida

Smith Barney Citigroup
Dianne Lerner

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

REPRESENTATION OF PARTIES

For Michael A. De Luca, MD, IRA account, Julie A. De Luca and Michael De Luca, tenants by the entirety, Julie De Luca TOD M.J.M.C. & L.A., De Luca and De Luca, LTD., Julie De Luca, IRA account, hereinafter collectively referred to as "Claimants": Russell L. Forkey, Esq., Russell L. Forkey, P.A., Fort Lauderdale, Florida.

For Smith Barney Citigroup ("Citigroup") and Dianne Lerner ("Lerner"), hereinafter collectively referred to as "Respondents": Holly R. Skolnick, Esq., Greenberg Traurig, P.A., Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: February 24, 2004.

Claimants signed the Uniform Submission Agreement: February 20, 2004.

Statement of Answer and Motion for a More Definite Statement of Claim filed by Respondents on or about: May 19, 2004.

Respondent Citigroup signed the Uniform Submission Agreement: March 19, 2004.

Respondent Lerner signed the Uniform Submission Agreement: March 19, 2004.

Motion to Strike and/or Response to Motion for a More Definite Statement of Claim filed by Claimants on or about: September 28, 2004.

Response to Claimants' Motion to Strike and Reply in Further Support of their Motion for a More Definite Statement of Claim filed by Respondents on or about: October 15, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: 1) breach of contract; 2) unsuitability; 3) breach of common law duties; and, 4) failure to supervise. The causes of action relate to the purchase of various unspecified stocks in Claimants' accounts.

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$2,000,000.00, interest, costs, punitive damages in the amount of \$250,000.00 and such other relief as this Panel deemed appropriate.

Respondents requested that the Statement of Claim be denied in its entirety, and dismissed, with prejudice, with attorneys' fees and costs assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

On October 26, 2004, the Panel issued an Order that granted Respondents' Motion for a More Definite Statement of Claim, but limited it to Claimants providing Respondents a list of specific trades for the period January 1, 1999 to February 20, 2004. Claimants' Motion to Strike was not ruled on and deemed moot by the Panel.

On or about August 12, 2005, the parties notified NASD Dispute Resolution that they had settled this matter and would be submitting a proposed Stipulated Award

On or about October 20, 2005, the parties submitted to NASD Dispute Resolution a Stipulated Motion for Award Directing Expungement of the NASD Central Registration Depository (the "CRD") record of Respondent Lerner. The parties stated that the grounds in support of said request include the settlement of this matter; that Claimants have agreed to dismiss all claims against Respondent Lerner, with prejudice; and, as part of the settlement, the Claimants have agreed not to oppose the expungement request. In addition, pursuant to the agreement of the parties, Respondent Citigroup will pay all forum fees and the parties will bear their own attorneys' fees and costs.

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

AWARD

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

The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Lerner's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD

Notices to Members 99-09 and 99-54, Respondent Lerner must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive

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	= \$ 500.00
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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, Respondent Citigroup is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00

Adjournment Fees

No requests for adjournments were filed 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:

Cancellation fees were assessed in this matter.

Cancellation of hearings scheduled for 8/15/05 – 8/19/05.

The Panel has assessed \$150.00 of the cancellation fee jointly and severally to Claimants.

The Panel has assessed \$150.00 of the cancellation fee jointly and severally to Respondents.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

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 a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: December 13, 2004 1 session	

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00	= \$2,400.00
Pre-hearing conferences: August 10, 2004 1 session	
October 25, 2004 1 session	

Two (2) Hearing sessions with the Panel @ \$1,200.00	= \$2,400.00
Hearing Date: May 16, 2005 2 sessions	
Total Forum Fees	= \$5,250.00

Pursuant to the parties' agreement, the Panel has assessed the total forum fees of \$5,250.00 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 during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Retained hearing session deposit	= \$ 1,200.00
<u>Three Day Cancellation Fee</u>	= \$ 150.00
Total Fees	= \$ 1,850.00
<u>Less payments</u>	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 150.00

Respondent Citigroup is solely liable for:

Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	= \$ 5,250.00
Total Fees	= \$ 13,800.00
<u>Less payments</u>	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 5,250.00

Respondents are jointly and severally liable for:

<u>Three Day Cancellation Fee</u>	= \$ 150.00
Total Fees	= \$ 150.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 150.00

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

ARBITRATION PANEL

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Public Arbitrator, Presiding Chairperson

Signature Date

Public Arbitrator

Signature Date

Non-Public Arbitrator

Signature Date

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

ARBITRATION PANEL

<i>Ellen J. Abrams</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Brian William Schremp</i>	-	<i>Public Arbitrator</i>
<i>Lee Alan Rosenblum</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures



Ellen J. Abrams
Public Arbitrator, Presiding Chairperson

Nov 5, 2005
Signature Date

Brian William Schremp
Public Arbitrator

Signature Date

Lee Alan Rosenblum
Non-Public Arbitrator

Signature Date

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

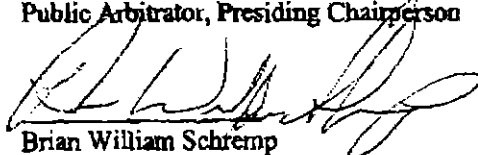
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<i>Brian William Schremp</i>	-	<i>Public Arbitrator</i>
<i>Lee Alan Rosenblum</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Ellen J. Abrams
Public Arbitrator, Presiding Chairperson



Brian William Schremp
Public Arbitrator

Signature Date

11/22/05
Signature Date

Lee Alan Rosenblum
Non-Public Arbitrator

Signature Date

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

ARBITRATION PANEL

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<i>Brian William Schremp</i>	-	<i>Public Arbitrator</i>
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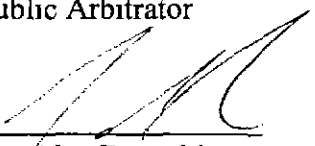
Concurring Arbitrators' Signatures

Ellen J. Abrams
Public Arbitrator, Presiding Chairperson

Signature Date

Brian William Schremp
Public Arbitrator

Signature Date



Lee Alan Rosenblum
Non-Public Arbitrator

11-4-05
Signature Date

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