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

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In the Matter of the Arbitration Between:

Names of the Claimants  
Nathan and Marilyn Finkelstein

Case Number: 04-02148

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

Hearing Site: Boca Raton, Florida

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Nathan and Marilyn Finkelstein, hereinafter collectively referred to as "Claimants": Bradley R. Stark, Esq., Bradley R. Stark, P.A., Coral Gables, Florida.

For Citigroup Global Markets, Inc. a/k/a Salomon Smith Barney, Inc., hereinafter referred to as "Respondent": Jason S. Haselkorn, Esq., Boose Casey Ciklin Lubitz Martens McBane & O'Connell, West Palm Beach, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: March 29, 2004.

Claimants signed the Uniform Submission Agreement: February 10, 2004.

Statement of Answer filed by Respondent on or about: June 30, 2004.

Respondent signed the Uniform Submission Agreement: May 11, 2004.

Motion to Admit Attached Exhibits, Rest Case and Allow Panel to Decide Case Immediately filed by Claimants on or about: February 14, 2005.

Response to Claimants' Motion to admit the Attached Exhibits, Rest Case and Allow Panel to Decide Case Immediately filed by Respondents on or about February 28, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action: violation of Sections 517.301 and 517.211 of the Florida Statutes; common law gross negligence or ordinary negligence and breach of contract; violation of NYSE Rule 405 and NASD Rule 2310; fraud; breach of fiduciary duty; and, negligent failure to supervise. The causes of action relate to the purchase and sale of various unspecified securities, including an annuity, mutual funds and common stocks in Claimants' account.

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

### **RELIEF REQUESTED**

Claimants requested statutory rescissionary damages in an amount in excess of \$312,940.10, disgorgement of commissions, plus interest, costs, compensatory damages in an amount in excess of \$500.00, reasonable attorney's fees in an amount to be determined by a court of competent jurisdiction, punitive damages in the amount of \$936,000.00, and for such further and other relief deemed just and proper.

Respondent requested that the Statement of Claim be dismissed in its entirety and that Claimants be ordered to pay Respondent's costs and attorneys' fees pursuant to Section 517.211(6) of the Florida Statutes and for any other and further relief deemed just and proper.

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

On or about March 23, 2005, the Panel denied Claimants' Motion to Admit the Attached Exhibits, Rest Case and Allow Panel to Decide Case Immediately.

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

Claimants' claims are denied in their entirety.

Any and all claims for relief not specifically addressed herein, including Claimants' request for statutory damages, punitive damages and the parties' respective requests for attorneys' fees 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 = \$ 500.00

### **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. In this matter, the member firm Citigroup Global Markets, Inc. is a party.

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

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

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:

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 @ \$1,200.00		= \$1,200.00
Pre-hearing conference:	August 23, 2004	1 session
Eight (8) Hearing sessions @ \$1,200.00		= \$ 9,600.00
Hearing Dates:	January 19, 2005	2 sessions
	January 20, 2005	2 sessions
	January 21, 2005	2 sessions
	March 23, 2005	2 sessions
Total Forum Fees		= \$10,800.00

The Panel has assessed \$10,800.00 of the forum fees 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**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
<u>Total Fees</u>	<u>= \$ 500.00</u>
<u>Less payments</u>	<u>= \$ 500.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	<u>= \$10,800.00</u>
<u>Total Fees</u>	<u>= \$19,350.00</u>
<u>Less payments</u>	<u>= \$13,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 5,800.00

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

**ARBITRATION PANEL**

Thomas Anthony Van Tiem, Sr.	-	Public Arbitrator, Presiding Chairperson
Gary M. Landau, Esq.	-	Public Arbitrator
Nicholas A. Natale	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/

03/29/05

\_\_\_\_\_  
Thomas Anthony Van Tiem, Sr.  
Public Arbitrator, Presiding Chairperson

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

/s/

03/24/05

\_\_\_\_\_  
Gary M. Landau, Esq.  
Public Arbitrator

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

/s/

03/28/05

\_\_\_\_\_  
Nicholas A. Natale  
Non-Public Arbitrator

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

03/29/2005

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

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Thomas A. Van Tiem Sr.      March 29, 2005  
Thomas Anthony Van Tiem, Sr.      Signature Date  
Public Arbitrator, Presiding Chairperson

**Gary M. Landau, Esq.**  
Public Arbitrator

**Signature Date**

**Nicholas A. Natale**  
Non-Public Arbitrator

**Signature Date**

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MAR. 24. 2005 4:23PM NASD  
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**Concurring Arbitrators' Signatures**

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Thomas Anthony Van Tien, Sr.  
Public Arbitrator, Presiding Chairperson

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

  
\_\_\_\_\_  
Gary M. Landau, Esq.  
Public Arbitrator

3/24/05  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Nicholas A. Natale  
Non-Public Arbitrator

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

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**Concurring Arbitrators' Signatures**

Thomas Anthony Van Tiem, Sr.  
Public Arbitrator, Presiding Chairperson

Signature Date

Gary M. Landau, Esq.  
Public Arbitrator

Signature Date



Nicholas A. Natale  
Non-Public Arbitrator

03/28/2005  
Signature Date

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