

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

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In the Matter of the Arbitration Between:

Citigroup Global Markets, Inc. (f/k/a Salomon Smith Barney Inc.), Claimant v. Jessica A. Berry,  
Respondent

Case Number: 04-03618

Situs: San Francisco, California

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Nature of the Dispute: Member v. Associated Person

**REPRESENTATION OF PARTIES**

For Claimant:

Kinnery Patel, Esq.  
The Mozingo Law Firm  
Newport Beach, California

Respondent did not enter an appearance in this matter

**CASE INFORMATION**

Statement of Claim filed: April 22, 2004

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

**CASE SUMMARY**

Claimant alleged that Respondent failed to pay a promissory note due and owing to Claimant.

**RELIEF REQUESTED**

Claimant requested \$77,670.00 in compensatory damages, interest at the rate of 10% beginning from October 24, 2001, and costs, including attorney's fees.

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

On June 16, 2004, Claimant's counsel signed a Waiver Agreement on Claimant's behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom this Claim, relating exclusively to a promissory note, has been filed.

On July 18, 2005, Claimant filed a Motion for Default Judgment wherein Claimant opted to proceed against Respondent Jessica A. Berry pursuant to Rule 10314(e) of the NASD Code of Arbitration Procedure ("Code"). On August 30, 2005, the Panel granted the motion. The Chair of the Arbitration Panel who was appointed to this matter prior to July 18, 2005, became the sole arbitrator to decide this matter. The remaining two panelists were released.

The Chairperson determined that Respondent Jessica A. Berry was properly served notice of the Statement of Claim and Notification of the Arbitrators by certified mail, and that Respondent Jessica A. Berry is required to submit to arbitration pursuant to the Code and is bound by the determination of the arbitrators on all issues submitted.

### **AWARD**

The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable to and shall pay Claimant the sum of \$77,670.00 in compensatory damages.
2. Respondent is liable to and shall pay Claimant interest at the rate of 10% per annum on \$77,670.00 from October 24, 2001 until compensatory damages are paid in full to Claimant.
3. Respondent is liable to and shall pay Claimant the sum of \$11,650.00 in attorney's fees, pursuant to the promissory note.
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	= \$ 1,000.00
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#### **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	= \$ 1,100.00
<u>Pre-Hearing Process Fee</u>	<u>= \$ 750.00</u>
<b>Total Member Fees</b>	<b>= \$ 1,850.00</b>

#### **Forum Fees and Assessments**

The Chairperson 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 Chairperson or the parties and the Panel. The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conference: September 13, 2004 1 session	

<u>Fee for Decision on the Paper Record</u>	<u>= \$ 300.00</u>
<b>Total Forum Fees</b>	<b>= \$ 1,050.00</b>

1. The Chairperson assessed \$1,050.00 of the forum fees to Respondent.

**Fee Summary**

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

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 1,850.00
Total Fees	= \$ 2,850.00
Less payments	= \$(5,300.00)
Refund Due Claimant	= \$(2,450.00)

2. Respondent is charged with the following fees and costs:

Forum Fees	= \$ 1,050.00
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 1,050.00


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.

**ARBITRATOR**

Mary Curran

- Non-Public Arbitrator, Presiding Chair

**Arbitrator's Signature**

  
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Mary Curran  
Chair, Non-Public Arbitrator

8/31/2005  
Signature Date

8/31/05  
Date of Service