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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Genevieve Rae Jones

Case Number: 04-03626

Names of the Respondents  
Smith Barney a/k/a Citigroup  
Larry L. Hamel

Hearing Site: Atlanta, Georgia

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

**REPRESENTATION OF PARTIES**

For Genevieve Rae Jones, hereinafter referred to as "Claimant": Randy Jones, Atlanta, Georgia, pursuant to the General Power of Attorney dated November 5, 1999.

For Smith Barney a/k/a Citigroup ("Citigroup") and Larry L. Hamel ("Hamel"), hereinafter collectively referred to as "Respondents": William A. Hohausser, Director and Associate General Counsel, Citigroup Global Markets, Inc., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: May 20, 2004.

Claimant signed the Uniform Submission Agreement: May 17, 2004.

Respondents did not file a Statement of Answer.

Respondent Citigroup signed the Uniform Submission Agreement: July 12, 2004.

Respondent Hamel did not file an executed Uniform Submission Agreement.

Motion to Dismiss filed by Respondents on or about: July 12, 2004.

Motion to Preclude filed by Claimant on or about: July 13, 2004.

Response to Motion to Dismiss filed by Claimant on or about: July 21, 2004.

Response to Motion to Preclude filed by Respondents on or about: July 21, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: unsuitability; breach of fiduciary duty; and, negligence. The causes of action relate to the purchase and sale of unspecified securities products in Claimant's account.

Respondents asserted a Motion to Dismiss the Statement of Claim on the basis that it was ineligible for arbitration pursuant to Rule 10304 of the NASD Code of Arbitration Procedure (the "Code"), as the claims related to events that occurred more than six years prior to the filing of the Statement of Claim.

In response to the Motion to Dismiss, Claimant acknowledged that the wrongdoing was discovered in 1994, but asserted that she was unable to bring the claims at an earlier date because of financial and health related issues and the death of her spouse.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$757,000.00, punitive damages in the amount of \$10,000,000.00, costs and any other relief deemed just and proper.

Respondent requested that Claimant's claims be dismissed in their entirety.

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

Respondent Hamel did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determinations of the Panel on all issues submitted.

During the pre-hearing conference on October 8, 2004, the Panel heard oral arguments on Respondents' Motion to Dismiss, and Claimant's response thereto. Thereafter, on or about October 19, 2004, the Panel issued an order granting Respondents' Motion to Dismiss and declaring this matter ineligible for adjudication by the arbitration process of NASD Dispute Resolution, in accordance with Rule 10304 of the Code. As such, Claimant's Motion to Preclude was rendered moot.

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

### **AWARD**

After considering the pleadings, the Motion to Dismiss, and response thereto, and the record in this matter, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims are dismissed in their entirety, with prejudice.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

### **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 = \$ 600.00 waived by the Panel.

#### **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        | = \$3,750.00 |
| Pre-hearing process fee | = \$ 750.00  |

#### **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: October 8, 2004 1 session       |              |
| Total Forum Fees  | = \$1,200.00 |

The Panel has assessed \$600.00 of the forum fees to Claimant.

The Panel has assessed \$600.00 of the forum fees jointly and severally to Respondents.

#### **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**

Claimant is solely liable for:

|                                     |             |
|-------------------------------------|-------------|
| <u>Forum Fees</u>                   | = \$ 600.00 |
| <u>Total Fees</u>                   | = \$ 600.00 |
| <u>Less payments</u>                | = \$ 0.00   |
| Balance Due NASD Dispute Resolution | = \$ 600.00 |

Respondent Citigroup is solely liable for:

|                                     |               |
|-------------------------------------|---------------|
| <u>Member Fees</u>                  | = \$ 4,500.00 |
| <u>Total Fees</u>                   | = \$ 4,500.00 |
| <u>Less payments</u>                | = \$ 4,500.00 |
| Balance Due NASD Dispute Resolution | = \$ 0.00     |

Respondents are jointly and severally liable for:

|                                     |             |
|-------------------------------------|-------------|
| <u>Forum Fees</u>                   | = \$ 600.00 |
| <u>Total Fees</u>                   | = \$ 600.00 |
| <u>Less payments</u>                | = \$ 0.00   |
| Balance Due NASD Dispute Resolution | = \$ 600.00 |

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

**ARBITRATION PANEL**

|                             |   |  |
|-----------------------------|---|--|
| Chandler Bridges, Esq.      | - | Public Arbitrator, Presiding Chairperson |
| Robert H. Putnam, Jr., Esq. | - | Public Arbitrator                        |
| Michael J. Stern            | - | Non-Public Arbitrator                    |

**Concurring Arbitrators' Signatures**

/s/

10/22/04

\_\_\_\_\_  
Chandler Bridges, Esq.  
Public Arbitrator, Presiding Chairperson

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

/s/

10/25/04

\_\_\_\_\_  
Robert H. Putnam, Jr., Esq.  
Public Arbitrator

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

/s/

10/22/04

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Michael J. Stern  
Non-Public Arbitrator

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

10/25/04

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

|  |             |
|--|-------------|
| <u>Forum Fees</u>                          | = \$ 600.00 |
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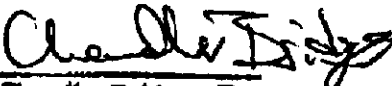
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