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

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In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 04-04009

Fred C. Arnold, TTEE of the Fred C. Arnold Living Trust  
Fred C. Arnold, individually as owner of IRA accounts

Names of the Respondents

Hearing Site: Tampa, Florida

Citigroup Global Markets Inc., f/k/a  
Salomon Smith Barney Inc.  
Jack B. Grubman

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

**REPRESENTATION OF PARTIES**

For Fred C. Arnold, TTEE of the Fred C. Arnold Living Trust and Fred C. Arnold, individually as owner of IRA accounts, hereinafter referred to as "Claimants": Marshall Richer, Esq., Finkelstein & Partners, Albany, New York.

For Citigroup Global Markets Inc., f/k/a Salomon Smith Barney Inc. ("Citigroup") and Jack B. Grubman ("Grubman"), hereinafter collectively referred to as "Respondents": Tucker Byrd, Esq., Greenberg Traurig, Orlando, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: May 12, 2004.  
Claimants signed the Uniform Submission Agreement: July 16, 2003.  
Statement of Answer filed by Respondents on or about: August 9, 2004.  
Respondents signed Uniform Submission Agreements: July 14, 2004.  
Memorandum in Reply to Respondents' Statement of Answer filed by Claimant on or about: October 15, 2004.  
Motion in Limine to Exclude Evidence of Settlements and Other Inadmissible Documents filed by Respondent Citigroup on or about: August 10, 2005.  
Joint Motion to Have this Matter Determined on the Paper Record and Claimant's Motion to Amend the Statement of Claim filed on or about: August 26, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action: 1) omission to state material facts and conflicts of interest in violation of Section 17(A) of the Securities Act of 1933; 2) omission to state material facts and conflicts of interest in violation of Chapter 517.301 of the Florida Securities and Investor Protection Act; 3) omission to state material facts and conflicts of interest in violation of NASD Rule 2210(d)(1), Communications with the

Public-General Standards; 4) breach of fiduciary duty; and 5) respondeat superior. The causes of action relate to Claimants' investment in WorldCom stock.

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 rescissionary damages in the amount of \$33,104.11, punitive damages in the amount of \$16,000.00, interest, costs, attorneys' fees and such other relief as deemed appropriate by the Panel.

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 or about August 16, 2005, the sole Arbitrator issued an Order that denied Respondents' Motion in Limine to Exclude Evidence of Settlements and Other Inadmissible Documents.

On or about August 29, 2005, the Arbitrator issued an Order that granted the parties' Motion to Have this Matter Determined on the Paper Record and Claimants' Motion to Amend the Statement of Claim. Thereafter, on or about September 28, 2005, in lieu of an Amended Statement of Claim, Claimants filed a Final Hearing Brief and, on or about November 7, 2005, Respondents filed their Final Hearing Brief and Memorandum of Law on the Issue of Reliance.

### **AWARD**

After considering the pleadings the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Respondents are found jointly and severally liable for violation of Florida Statutes, Chapter 517 and shall pay to Claimants compensatory damages in the amount of \$33,104.11, plus interest per annum at the state of Florida statutory rate from November 21, 2005 until the date of payment of the Award.

Respondents are jointly and severally liable and shall pay to Claimants' attorneys' fees, pursuant to violation of Florida Statutes, Chapter 517, in an amount to be determined by a court of competent jurisdiction.

Respondents are jointly and severally liable and shall reimburse the claim filing fee previously paid by Claimants to NASD Dispute Resolution in the amount of \$175.00.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages and Respondents' request for attorneys' fees, 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 = \$ 175.00

**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. 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	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$1,000.00</u>
Total Member fees	= \$2,625.00

**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:

No cancellation fees were assessed in this matter.

**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
<u>Pre-hearing conference: November 17, 2004 1 session</u>	
Total Forum Fees	= \$450.00

The Arbitrator has assessed the total forum fees of \$450.00 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 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:

<u>Initial Filing Fee</u>	= \$ 175.00
<u>Total Fees</u>	= \$ 175.00
<u>Less payments</u>	= \$ 175.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent Citigroup is solely liable for:

<u>Member Fees</u>	= \$ 2,625.00
<u>Total Fees</u>	= \$ 2,625.00
<u>Less payments</u>	= \$ 2,625.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 450.00
<u>Total Fees</u>	= \$ 450.00
<u>Less payments</u>	= \$ 125.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 325.00

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

**ARBITRATOR**

*Richard Hoffman, CFP*

*Public Arbitrator, Presiding Chairperson*

**Arbitrator's Signature**

/s/

Richard Hoffman, CFP  
Public Arbitrator, Presiding Chairperson

11/29/05

Signature Date

11/29/05

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

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