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

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In the Matter of the Arbitration Between:

Names of the Claimants

David G. and Patricia M. Guild JTWROS

Case Number: 04-04158

Names of the Respondents

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

Hearing Site: Tampa, Florida

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

**REPRESENTATION OF PARTIES**

For David G. and Patricia M. Guild JTWROS, hereinafter collectively referred to as "Claimants": Douglas H. Glicken, Law Office of Douglas H. Glicken, Orlando, Florida.

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: June 14, 2004.

Claimants signed the Uniform Submission Agreement: May 19, 2003.

Statement of Answer filed by Respondents on or about: August 9, 2004.

Respondents signed the Uniform Submission Agreements: July 14, 2004.

Reply to Respondents' Statement of Answer filed by Claimants on or about: August 16, 2004.

Motion to Strike Claimants' Reply to Respondents' Statement of Answer filed by Respondents on or about: September 30, 2004.

Joint Motion to Have This Matter Determined on the Paper Record Only and Claimants' Motion to Amend the Statement of Claim filed on or about: June 8, 2005.

Amended Statement of Claim filed by Claimants on or about: July 15, 2005.

Memorandum of Law on the Issue of Reliance and Final Brief filed by Respondents on or about: August 19, 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 Claimant's 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, as amended, in the amount of \$23,588.16, an unspecified amount of punitive damages, interest, costs, attorneys' fees and such other relief as deemed appropriate by the Panel.

Respondents requested that the Statement of Claim, as amended, 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 October 19, 2004, the sole Arbitrator for this matter issued an Order that granted Respondents' Motion to Strike Claimants' Reply to Respondents' Statement of Answer. In addition, the Order referred to a section of the Motion filed by Claimants' entitled "Claimants' Preliminary Response to Respondents Motion to Dismiss and Motion to Strike." The Arbitrator determined that this response was not only preliminary, but also premature as the Respondents did not file a Motion to Dismiss and sought dismissal only as a relief request in their Statement of Answer. However, the Arbitrator did deny Respondents' Motion to Strike Claimants' Preliminary Response to Respondents' request to strike the affidavit of Mr. Long, which was included on page 35 of Respondents' Statement of Answer.

On or about June 15, 2005, the Arbitrator issued an Order that granted the parties' Motion to Have This Matter Determined on the Paper Record Only and Claimants' Motion to Amend the Statement of Claim. Thereafter, on or about July 15, 2005, Claimants filed their Amended Statement of Claim and on or about August 19, 2005, Respondents filed their Memorandum of Law on the Issue of Reliance and Final Hearing Brief.

### **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 not liable and Claimants' claims are denied in their entirety and dismissed, with prejudice.

Each party is to bear their own costs and fees.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages and request for relief pursuant to Florida Statutes, Chapter 517 and the parties' 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 = \$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

Hearing process fee = \$1,000.00

**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:

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:

Three (3) Pre-hearing sessions with a single arbitrator @ \$450.00 = \$1,350.00

Pre-hearing conferences: October 7, 2004 1 session

October 19, 2004 1 session

November 19, 2004 1 session

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Total Forum Fees = \$1,350.00

The Arbitrator has assessed \$675.00 of the forum fees jointly and severally to Claimants.

The Arbitrator has assessed \$675.00 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 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	= \$ 175.00
<u>Forum Fees</u>	= \$ 675.00
Total Fees	= \$ 850.00
<u>Less payments</u>	= \$ 625.00
Balance Due NASD Dispute Resolution	= \$ 225.00

Respondent Citigroup is solely liable for:

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

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 675.00
Total Fees	= \$ 675.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 675.00

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

**ARBITRATOR**

Christopher M. Shulman, Esq.

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Public Arbitrator, Presiding Chairperson

**Arbitrator's Signature**

/s/

Christopher M. Shulman, Esq.  
Public Arbitrator, Presiding Chairperson

09/19/05

Signature Date

09/19/05

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

FROM : NASD

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

Respondents are jointly and severally liable for:

Forum Fees	= \$ 675.00
Total Fees	= \$ 675.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 675.00

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**ARBITRATOR**

Christopher M. Shulman, Esq.

Public Arbitrator, Presiding Chairperson

**Arbitrator's Signature**


Christopher M. Shulman, Esq.  
Public Arbitrator, Presiding Chairperson

9/19/05  
Signature Date

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