

Award  
NASD Dispute Resolution

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In the Matter of the Arbitration Between:

Carolyn Kenton, Claimant v. Stephen A. "Steve" Johnston and Salomon Smith Barney Inc n/k/a Citigroup Global Markets Inc., Respondents

Case Number: 04-04291

Hearing Site: Las Vegas, Nevada

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

**REPRESENTATION OF PARTIES**

For Claimant:

David Liebrader, Esq.  
Law Offices of David  
Liebrader, APC  
Las Vegas, Nevada

For Respondents:

Peter R. Boutin, Esq.  
Keesal, Young & Logan  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed: June 12, 2004

Claimant's Uniform Submission Agreement signed but not dated

Joint Statement of Answer filed by Respondents Stephen A. Johnston and Citigroup Global Markets Inc.: October 11, 2004

Respondent Stephen A. Johnston's Uniform Submission Agreement signed: October 15, 2004

Respondent Citigroup Global Markets, Inc.'s (f/k/a Salomon Smith Barney Inc. and hereinafter Citigroup Global Markets Inc.) Uniform Submission Agreement signed: December 15, 2004

**CASE SUMMARY**

Claimant alleged breach of fiduciary duty, fraud and misrepresentation, breach of implied warranty of good faith and fair dealing, negligence, violation of Nevada Revised Statutes sections 90.570 and 90.660, violation of Nevada Revised Statutes sections 598.092 et seq. and 41.600 (deceptive trade practices – consumer fraud), breach of contract, and failure to supervise.

Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of claim

and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested \$1,000,000.00 in compensatory damages, consequential damages, lost opportunity costs, disgorgement and restitution of earnings, profits, compensation, and benefits, unspecified punitive and exemplary damages, pre and post-judgment interest, and costs, including attorney's fees.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety and costs.

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

On July 27, 2005, Respondents filed a Motion for Expungement. Claimant was provided with an opportunity to respond to this motion, but no response was received by NASD. The Panel hereby grants Respondents' request that this matter be expunged from Respondent Stephen A. Johnston's Central Registration Depository ("CRD") records.

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

### **AWARD**

After considering the pleadings and the Parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims against Respondent Citigroup Global Markets Inc. have been resolved.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Stephen A. Johnston's registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Stephen A. Johnston must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.

Pursuant to Rule 2130, the arbitration panel has made the following affirmative finding of fact:

The claims are false.

3. The parties shall bear their respective costs and expenses, including attorneys' fees.
4. All other relief 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	= \$ 375.00
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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, which 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	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 4,000.00
<b>Total Member Fees</b>	<b>= \$ 7,000.00</b>

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

The Panel 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 Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$ 1,200.00/session	= \$ 1,200.00
Pre-hearing conference: December 7, 2004	1 session
<b>Total Forum Fees</b>	<b>= \$ 1,200.00</b>

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

**Fee Summary**

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

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 600.00
Total Fees	= \$ 975.00
Less payments	= \$(1,575.00)
<b>Refund Due Claimant</b>	<b>= \$ (600.00)</b>

2. Respondent Citigroup Global Markets Inc. is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
Less payments	= \$(7,000.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

3. Respondents Stephen A. Johnston and Citigroup Global Markets Inc. are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 600.00
Less Payments Made by Citigroup Global Markets Inc.	= \$(5,700.00)
<b>Refund Due Citigroup Global Markets Inc.</b>	<b>= \$(5,100.00)</b>

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.

**ARBITRATION PANEL**

William Urga, Esq.	-	Public Arbitrator, Presiding Chair
Mary Alice Cox, CPA	-	Public Arbitrator
Alan S. Mann	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



William Urga, Esq.  
Chair, Public Arbitrator

9/15/05  
Signature Date

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Mary Alice Cox, CPA  
Public Arbitrator

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

\_\_\_\_\_  
Alan S. Mann  
Non-Public Arbitrator

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

9/16/05  
Date of Service


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