

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Marlene Bertman (Claimant) vs. Citigroup Global Markets, Inc. (f/k/a Salomon Smith Barney, Inc.) and Bernard Wytko (Respondents)

Case Number: 04-04796

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimant Marlene Bertman hereinafter referred to as "Claimant" appeared *pro se*. Previously represented by Howard Rosenfield, Esq., Law Offices of Howard Rosenfield, Farmington, CT. Previously represented by Michael A. Stratton, Esq., Stratton Faxon, New Haven, CT.

Respondents Citigroup Global Markets ("Citigroup") and Bernard Wytko ("Wytko") hereinafter collectively referred to as "Respondents": William Hohauser, Esq., Citigroup Global Markets, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: June 9, 2004.
Claimant signed the Uniform Submission Agreement.

Statement of Answer filed by Respondents on or about: October 26, 2004.
Respondent Citigroup signed the Uniform Submission Agreement: February 18, 2004.
Respondent Wytko signed the Uniform Submission Agreement: February 23, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty, negligence, and failure to supervise. The causes of action relate to various securities including Amazon, AT&T and Flextronics.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in excess of \$400,000.00, lost opportunity costs (pre-judgment interest) in the amount of \$140,000, punitive damages in the

amount of \$800,000.00, interest, attorneys' fees, costs, and such other damages as the Panel may award and deem appropriate under the circumstances.

OTHER ISSUES CONSIDERED AND DECIDED

At the conclusion of Claimant's case, Respondents moved to dismiss the matter. After due deliberation, the Panel granted the motion.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Bernard Wytko's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Bernard Wytko 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 findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

3. Any and all relief not specifically addressed herein, including punitive damages, is 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 = \$ 500.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney is a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

October 18-21, 2005 adjournment by Claimant	= Waived
June 5-9, 2006 adjournment by Claimant	= Waived

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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 sessions with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: October 12, 2005 1 session	
Three (3) Pre-hearing sessions with Panel @ \$1,200.00	= \$3,600.00
Pre-hearing conferences: February 11, 2005 1 session	
February 18, 2005 1 session	
June 23, 2006 1 session	
Two (2) Hearing sessions @ \$1,200.00 per session	= \$2,400.00
Hearing Date: November 1, 2006 2 sessions	
Total Forum Fees	= \$6,450.00

1. The Panel has assessed \$6,450.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are solely liable for:

Initial Filing Fee	= \$ 500.00
Total Fees	= \$ 500.00
Less payments	= \$1,700.00
Refund Due Claimant	= \$1,200.00

2. Respondent Citigroup is solely liable for:

Member Fees	= \$8,550.00
Total Fees	= \$8,550.00
Less payments	= \$8,550.00

Balance Due NASD Dispute Resolution = \$ 0.00

3. Respondents are jointly and severally liable for:

Forum Fees	= \$6,450.00
Total Fees	= \$6,450.00
Less payments	= \$1,200.00
Balance Due NASD Dispute Resolution	= \$5,250.00

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

ARBITRATION PANEL

Eugene Mathias Schloss, Esq.	-	Public Arbitrator, Presiding Chairperson
Lise Gabrielle Hunter, Esq.	-	Public Arbitrator
Jonathan Frede	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures



Eugene Mathias Schloss, Esq.
Public Arbitrator, Presiding Chairperson

11/3/06
Signature Date

Lise Gabrielle Hunter, Esq.
Public Arbitrator

Signature Date

Jonathan Frede
Non-Public Arbitrator

Signature Date

November 7, 2006

Date of Service (For NASD Dispute Resolution use only)

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Signature Date



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Public Arbitrator

1/7/06

Signature Date

Jonathan Frede
Non-Public Arbitrator

Signature Date

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Jonathan Frede
Non-Public Arbitrator

11/3/2006

Signature Date

November 7, 2006

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