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

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In the Matter of the Arbitration Between:

Name of the Claimant  
C. Stephen Carper IRA

Case Number: 04-05072

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 C. Stephen Carper IRA, hereinafter referred to as "Claimant": Douglas H. Glicken, Esq., Law Office of Douglas H. Glicken, P.A., 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": Michael D. Wallander, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: July 15, 2004.

Claimant signed the Uniform Submission Agreement: January 12, 2004.

Statement of Answer filed by Respondents on or about: August 26, 2004.

Respondent Citigroup signed the Uniform Submission Agreement: March 14, 2005.

Respondent Grubman signed the Uniform Submission Agreement: October 26, 2004.

Claimant's Reply to Respondents' Answer to Statement of Claim filed on or about: September 1, 2004.

Motion to amend the Statement of Claim, proceed solely on the pleadings, and convert the case to a paper case ("Motion to Amend and to Proceed on the Pleadings") filed by Claimant on or about: July 14, 2005.

Amended Statement of Claim filed on or about: August 18, 2005.

Respondents' Answer to Amended Statement of Claim filed on or about: September 15, 2005.

**CASE SUMMARY**

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

Public-General Standards; breach of fiduciary duty; and, respondeat superior. The causes of action relate to the Claimant's investment in WorldCom stock.

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

### **RELIEF REQUESTED**

Claimant requested rescissory damages in the amount of \$22,698.89, an unspecified amount of punitive damages, interest, costs, attorneys' fees and such other relief as deemed appropriate by the undersigned arbitrator (the "Arbitrator").

Respondents requested that Claimant's Statement of Claim, as amended, be denied in its entirety, and dismissed with prejudice, with attorneys' fees and costs assessed against Claimant.

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

On or about July 25, 2005, the Arbitrator issued an order which granted Claimant's Motion to Amend and to Proceed on the Pleadings.

### **AWARD**

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

It is the opinion of the Arbitrator that the facts omitted at the time of purchase (the so called bribes by use of IPO's) did not rise to the level of a material omission due in part to the fact that the practice was known to well read investors. However, shortly after the purchases were made, conflicts of interest continued for the next year and a half. Can a series of conflicts of interest at some point taken as a whole rise to the level of a material fact? It appears that federal and state law are silent on this question. Did a fiduciary relationship exist between Respondent Citigroup and one or more of its employees and Claimant? Despite the nature of the account (non-discretionary), the presumption, after 15 years, is that one existed. Claimant, however, cannot prove that a breach thereof was the cause of his loss. In short, the Arbitrator cannot find legal grounds to make an award to Claimant despite the egregious acts of the Respondents.

The Claims of the Claimant are denied.

Respondents are liable, jointly and severally, and shall pay to Claimant the sum of \$125.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

Any and all claims for relief not specifically addressed herein, including Claimant's requests

for punitive damages and attorneys fees and for relief pursuant to Florida Statutes Chapter 517, 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 = \$125.00

#### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent Citigroup is a party and a member firm.

Member surcharge = \$425.00

Total Member Fees = \$425.00

#### Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were assessed 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 assessed 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 assessed in this matter.

#### Forum Fees and Assessments

The Arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single Arbitrator @ \$450.00/session = \$450.00

Pre-hearing conference: December 9, 2004 1 session

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Total Forum Fees	= \$450.00
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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 in this matter.

**Fee Summary**

Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$125.00
Total Fees	= \$125.00
<u>Less payments</u>	= \$125.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Citigroup is solely liable for:

<u>Member Fees</u>	= \$425.00
Total Fees	= \$425.00
<u>Less payments</u>	= \$425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$450.00
Total Fees	= \$450.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$450.00

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

**ARBITRATOR**

John M. Tapley

Public Arbitrator

**Arbitrator's Signature**

\_\_\_\_\_/s/\_\_\_\_\_  
John M. Tapley  
Public Arbitrator

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Signature Date

October 18, 2005  
Date of Service (For NASD Dispute Resolution use only)

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JOHN M TAPLEY

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**ARBITRATOR**

John M. Tapley

Public Arbitrator

**Arbitrator's Signature**

  
John M. Tapley  
Public Arbitrator

Oct 18, 05  
Signature Date

Date of Service (For NASD Dispute Resolution use only)