

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

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In the Matter of the Arbitration Between:

Names of the Claimants

Christopher W. Clavin  
Donald S. Schultz  
Carl A. Schultz  
William M. Schultz

Case Number: 04-05579

Name of the Respondent

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

Hearing Site: Philadelphia, Pennsylvania

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Nature of the Dispute: Associated Persons vs. Member.

**REPRESENTATION OF PARTIES**

Claimants, Christopher W. Clavin ("Clavin"), Donald S. Schultz ("D. Schultz"), Carl A. Schultz ("C. Schultz"), and William M. Schultz ("W. Schultz"), hereinafter collectively referred to as "Claimants", were represented at the hearing by Derek C. Anderson, Esq., Michaels & Ward, LLP, Boston, Massachusetts.

Respondent, Citigroup Global Markets, Inc., f/k/a Salomon Smith Barney, Inc., hereinafter referred to as "Respondent", was represented by Marcie S. Mintz, Esq., Citigroup Global Markets, Inc., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on August 4, 2004.

Claimants signed an undated Uniform Submission Agreement.

Statement of Answer filed by Respondent on September 24, 2004.

A representative of Respondent executed the Uniform Submission Agreement on September 24, 2004.

Respondent filed a Motion to Dismiss on June 17, 2005.

Claimants filed a Response to the Motion to Dismiss on July 1, 2005.

Respondent filed a Reply to the Motion to Dismiss on July 21, 2005.

**CASE SUMMARY**

Claimants, in their Statement of Claim asserted the following causes of action, among others: violation of the Wage Payment and Collection Law of Pennsylvania; conversion; constructive trust; breach of contract; breach of covenant of good faith and fair dealing; breach of fiduciary duty; fraud and misrepresentation; and collateral estoppel. The causes of action relate to the employment of Claimants with Respondent and the alleged wrongful withholding of earned wages from Claimants upon their resignation.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; any losses were caused by Claimants' own conduct; Claimants' claims are barred by the applicable statutes of limitations; and, Claimants' claims are barred by the Statutes of Frauds.

### **RELIEF REQUESTED**

Claimants in their Statement of Claim requested compensatory damages in an amount not less than \$300,000.00, attorneys fees, and interest.

Respondent requested that the Statement of Claim be dismissed and that Respondent be granted such other and further relief as is just, proper, and equitable.

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

At the hearing, Claimant W. Schultz withdrew his claims against Respondent with prejudice.

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, and the post-hearing submissions, the Arbitration Panel (the "Panel") has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent shall pay Claimant Clavin compensatory damages in the amount of \$70,139.31, plus interest at a rate of 6%. Interest shall be calculated on a simple basis and shall accrue from the date of the award through the date the Award is paid in full;
2. Respondent shall pay Claimant D. Schultz compensatory damages in the amount of \$8,481.09, plus interest at a rate of 6%. Interest shall be calculated on a simple basis and shall accrue from the date of the award through the date the Award is paid in full;
3. Respondent shall pay Claimant C. Schultz compensatory damages in the amount of \$99,142.84, plus interest at a rate of 6%. Interest shall be calculated on a simple basis and shall accrue from the date of the award through the date the Award is paid in full;
4. All claims for attorneys' fees are denied in their entirety;
5. The parties shall bear their respective costs except as Fees are specifically addressed below; and
6. Any and all relief not specifically addressed herein is denied in its entirety.

### **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 = \$ 300.00

#### **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 person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent is a party.

Member surcharge = \$ 1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 2,750.00

Total Member Fees = \$ 5,200.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

September 19, 2005, adjournment requested by the parties = \$ 1,125.00

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

The Panel 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:

Two (2) Pre-hearing sessions with Panel @ \$ 1,125.00 = \$ 2,250.00

Pre-hearing conferences: January 18, 2005 1 session  
August 29, 2005 1 session

Six (6) Hearing sessions @ \$ 1,125.00 = \$ 6,750.00

Hearing Dates: September 20, 2005 2 sessions  
September 21, 2005 2 sessions  
September 22, 2005 2 sessions

Total Forum Fees = \$ 9,000.00

1. The Panel has assessed \$ 1,125.00 of the forum fees jointly and severally to Claimants Clavin, D. Schultz, C. Schultz and W. Schultz.
2. The Panel has assessed \$ 3,375.00 of the forum fees jointly and severally to Claimants Clavin, D. Schultz, and C. Schultz.
3. The Panel has assessed \$4,500.00 of the forum fees to Respondent.

### **FEES SUMMARY**

Claimants Clavin, D. Schultz, C. Schultz, and W. Schultz are jointly and severally assessed and shall pay:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 562.50
<u>Forum Fees</u>	<u>= \$ 1,125.00</u>
Total Fees	= \$ 1,987.50
<u>Less payments</u>	<u>= \$ 1,575.00</u>
Balance Due NASD Dispute Resolution	= \$ 412.50

Claimants Clavin, D. Schultz, and C. Schultz are jointly and severally assessed and shall pay:

<u>Forum Fees</u>	<u>= \$ 3,375.00</u>
Total Fees	= \$ 3,375.00
<u>Less payments</u>	<u>= \$ 00.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,375.00

Respondent is assessed and shall pay:

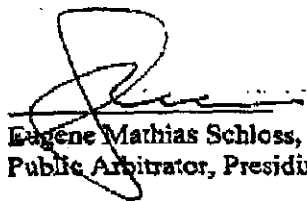
Member Fees	= \$ 5,200.00
Adjournment Fee	= \$ 562.50
<u>Forum Fees</u>	<u>= \$ 4,500.00</u>
Total Fees	= \$ 10,262.50
<u>Less payments</u>	<u>= \$ 3,500.00</u>
Balance Due NASD Dispute Resolution	= \$ 6,762.50

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, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Paul Greenberg, Esq.	-	Public Arbitrator, Panelist
Jon Alan Metta	-	Non-Public Arbitrator, Panelist

**Concurring Arbitrators' Signatures**



Eugene Mathias Schloss, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

10/7/05  
Signature Date

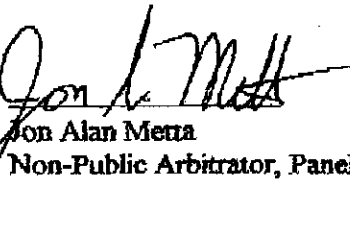
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Jon Alan Menta  
Non-Public Arbitrator, Panelist

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Signature Date

**Concurring Arbitrators' Signatures**

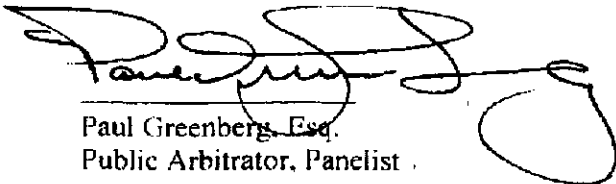
Eugene Mathias Schloss, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

  
Jon Alan Metta  
Non-Public Arbitrator, Panelist

10/7/2005  
Signature Date

**Dissenting Arbitrator's Signature**



Paul Greenberg, Esq.  
Public Arbitrator, Panelist

10/6/05  
Signature Date

October 7, 2005  
Date of Service (For NASD Dispute Resolution office use only)