

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

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In the Matter of the Arbitration Between:

Name of the Claimant

Nancy R. Witzel

Case Number: 04-05665

Name of the Respondent

Salomon Smith Barney, Inc.

n/k/a Citigroup Global Markets, Inc.

Hearing Site: Philadelphia, PA

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*Nature of the Dispute: Customer vs. Member.*

**REPRESENTATION OF PARTIES**

Claimant, Nancy R. Witzel, hereinafter referred to as "Claimant", was not represented by counsel.

Respondent, Salomon Smith Barney, Inc. n/k/a Citigroup Global Markets, Inc., hereinafter referred to as "Respondent", was represented by Rebecca J. Nelson, Esq., Citigroup Global Markets, Inc., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on November 21, 2004.

Claimant signed the Uniform Submission Agreement on November 1, 2004.

Statement of Answer filed by Respondent on January 28, 2005.

A representative of Respondent executed an undated Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action, among others: breach of contract, failure to supervise, breach of fiduciary duty, misrepresentations, and suitability. The causes of action relate to the use of margin in Claimant's account.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses, among others: ratification; Claimant is estopped or precluded from recovery under the doctrines of waiver, estoppel and ratification; failure to state a claim upon which relief may be granted; failure to mitigate damages; and statutes of limitations.

**RELIEF REQUESTED**

Claimant in her Statement of Claim requested:

Compensatory Damages	\$25,000.00
Punitive Damages	\$10,000.00
Interest	\$ 3,500.00
Other Costs	\$ 875.00

Respondent in its Statement of Answer requested that the Statement of Claim be dismissed in its entirety and that all costs of this proceeding be assessed against Claimant.

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

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

1. Respondent is liable to and shall pay to Claimant compensatory damages in the amount of \$5,000.00;
2. All claims for punitive damages are denied in their entirety;
3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
4. 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 = \$ 175.00

##### **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	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00
Total Member Fees	= \$2,625.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

December 13-14, 2005 adjournment by all parties fee waived

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:

December 13-14, 2005 adjournment by all parties fee waived

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:

One (1) Pre-hearing session with Panel @ \$600.00 = \$ 600.00

Pre-hearing conference: April 22, 2005 1 session

Two (2) Hearing sessions @ \$600.00 = \$1,200.00

Hearing Date: April 18, 2006 2 sessions

Total Forum Fees = \$1,800.00

1. The Panel has assessed \$900.00 of the forum fees to Claimant.
2. The Panel has assessed \$900.00 of the forum fees to Respondent.

**SEE SUMMARY**

1. Claimant is assessed and shall pay the following fees:

Initial Filing Fee = \$ 175.00

Forum Fees = \$ 900.00

Total Fees = \$1,075.00

Less payments = \$ 875.00

Balance Due NASD Dispute Resolution = \$ 200.00

2. Respondent is assessed and shall pay the following fees:

Member Fees = \$2,625.00

Forum Fees = \$ 900.00

Total Fees = \$3,525.00

Less payments = \$3,375.00

Balance Due NASD Dispute Resolution = \$ 150.00

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

**ARBITRATION PANEL**

Peter A. Scarpato, Esq.  
Neale Clark Bringham, Ph. D  
Dean L. Scarpa

- Public Arbitrator, Presiding Chairperson  
- Public Arbitrator, Panelist  
- Non-Public Arbitrator, Panelist

**Concurring Arbitrators' Signatures**



Peter A. Scarpato, Esq.  
Public Arbitrator, Presiding Chairperson

4/20/06

Signature Date

Neale Clark Bringham, Ph. D  
Public Arbitrator, Panelist

Signature Date

Dean L. Scarpa  
Non-Public Arbitrator, Panelist

Signature Date

4/25/06 -

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

NASD Dispute Resolution

Arbitration No. 04-05665

Award Page 4**ARBITRATION PANEL**

Peter A. Scarpato, Esq.	-	Public Arbitrator, Presiding Chairperson
Neale Clark Brinshurst, Ph. D	-	Public Arbitrator, Panelist
Dean L. Scarpa	-	Non-Public Arbitrator, Panelist

**Concurring Arbitrators' Signatures**

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Peter A. Scarpato, Esq.  
Public Arbitrator, Presiding Chairperson

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

*Neale Clark Brinshurst, Ph.D.*  
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Neale Clark Brinshurst, Ph. D  
Public Arbitrator, Panelist

*4/24/06*  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Dean L. Scarpa  
Non-Public Arbitrator, Panelist

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

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Award Page 4

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Signature Date

  
Dean L. Scarpa  
Non-Public Arbitrator, Panelist

4-24-06  
Signature Date

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