

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant

J. Steen Pender, IRA

Case Number: 04-05961

Names of the Respondents

Citigroup Global Markets, Inc.

Jack B. Grubman

Hearing Site: Charlotte, North Carolina

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

**REPRESENTATION OF PARTIES**

Claimant, J. Steen Pender, IRA, hereinafter referred to as "Claimant", was represented by Michael B. Lynch, Esq., Hooper & Weiss, LLC, Orlando, Florida.

Respondents, Citigroup Global Markets, Inc. ("Citigroup"), and Jack B. Grubman ("Grubman"), hereinafter collectively referred to as "Respondents", were represented by Jennifer Tomsen, Esq., Greenberg Traurig, P.A., Orlando, Florida.

**CASE INFORMATION**

Statement of Claim filed on August 23, 2004.

Claimant signed the Uniform Submission Agreement on August 13, 2004.

Statement of Answer filed by Respondents on November 18, 2004.

A representative of Respondent Citigroup signed the Uniform Submission Agreement on March 30, 2005.

Respondent Grubman signed the Uniform Submission Agreement on March 31, 2005.

Motion to Proceed on Papers filed by Claimant on June 30, 2005.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action, among others: violation of section 17(a)(2) of the Securities and Exchange Act of 1933, violation of section 35-1-1210 of the South Carolina Uniform Securities Act, violation of NASD Rule 2210 (d) (1), breach of fiduciary duty, and *respondeat superior*. The causes of action relate to the purchase and sale of WorldCom stock.

Unless specifically admitted in their Statement of Answer, Respondents 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; Claimant's claims are barred by the doctrines of estoppel, ratification, laches, and waiver; authorization; failure to exercise due diligence; contributory negligence; assumption of the risk; failure to mitigate damages; and the Claimant

has failed to allege fraud with requisite particularity.

### **RELIEF REQUESTED**

Claimant in the Statement of Claim requested:

Compensatory Damages	\$ 18,389.17
Punitive Damages	amount unspecified
Attorneys' Fees	amount unspecified
Interest	amount unspecified
Other Costs	amount unspecified

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

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

On July 6, 2005, the Arbitrator granted Claimant's Motion to Proceed on Papers.

The parties 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, and all responses and replies thereto, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety;
2. The parties shall bear their respective costs, except as Fees are specifically addressed below; and
3. Any and all relief not specifically addressed herein, including punitive damages, 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	= \$ 125.00
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#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the

member firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Respondent Citigroup is a party.

Member surcharge = \$ 425.00

**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:

Decision based on the papers with single arbitrator @ \$ 300.00 = \$ 300.00

One (1) Pre-hearing session with single arbitrator @ \$450.00 = \$ 450.00

Pre-hearing conference: March 7, 2005 1 session

Total Forum Fees = \$ 750.00

1. The Panel has assessed \$ 375.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 375.00 of the forum fees jointly and severally to Respondents.

**Fee Summary**

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$ 125.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 500.00
Less payments	= \$ 575.00
Refund owed Claimant	= \$ 75.00

2. Respondent Citigroup is assessed and shall pay:

Member Fees	= \$ 425.00
Total Fees	= \$ 425.00
Less payments	= \$ 425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally assessed and shall pay:

Forum Fees	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 375.00

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

**ARBITRATOR**

John A. Baynes, III

Public Arbitrator, Presiding

**Arbitrator's Signature**



John A. Baynes, III  
Public Arbitrator, Presiding



Signature Date



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