

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Peter C. Jarnberg

v.

04-06349

Minneapolis, Minnesota

Respondents

Citigroup Global Markets, Inc.
and Jameson J. Viljaste

Nature of Dispute: Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

Peter C. Jarnberg ("**Claimant**") was represented by Susan F. Bullard, Esq., of London & Bullard, PLLC, Minneapolis, Minnesota.

Citigroup Global Markets, Inc. ("**Citigroup**") and Jameson J. Viljaste ("**Viljaste**"), hereinafter collectively referred to as "**Respondents**," were represented by Thomas P. Swigert, Esq., of Dorsey & Whitney, LLP, Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about October 11, 2004. The Submission Agreement of Claimant was signed on or about August 9, 2004.

The Statement of Answer was filed jointly by Respondents, Citigroup Global Markets, Inc., and Jameson J. Viljaste, on or about December 13, 2004. The Submission Agreement of Respondent, Citigroup Global Markets, Inc., was signed on or about November 24, 2004.

Claimant filed a Reply to Respondents' Answer on or about December 27, 2004.

CASE SUMMARY

Claimant asserted causes of action including the following: breach of contract, failure to supervise, negligence and breach of fiduciary duty. Claimant alleged that Respondents failed to properly execute a Transfer Upon Death ("TOD") designation to an account, which named Claimant as beneficiary. As a result, the proceeds of that account became part of the Decedent's probate estate and subject to the claims of all other beneficiaries listed in Decedent's will. Claimant asserted that he was forced to settle part of a claim, filed in probate court, with another beneficiary in order to move forward with this action. Claimant alleged that if Respondents had properly executed the TOD

designation, as was agreed upon, he would not have been forced to settle a claim in probate court or file this arbitration claim.

Respondents denied the allegations set forth in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim failed to state a claim upon which relief can be granted; Claimant is barred from recovery because he failed to take timely action to ensure that the account was set up with the appropriate TOD documentation; Claimant is barred from recovery by the doctrines of laches, waiver, and estoppel; any losses allegedly sustained by Claimant were due to his own failure to seek proper court permission to trade the account; any losses allegedly sustained by Claimant were caused by his failure to mitigate his losses; the sole actions and /or negligence of Claimant caused any losses allegedly sustained by Claimant; Claimant assumed the risks of loss; and any injury or loss to Claimant the was the result of superceding or intervening causes beyond the control of Respondents.

RELIEF REQUESTED

Claimant requested an award of \$94,126 in compensatory damages, \$150,000 in punitive damages, costs, attorneys' fees, interest and any other relief the panel deemed just and proper.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondent, Jameson J. Viljaste, did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and is bound by the determination of the arbitration panel on all issues submitted.

After Claimant's case-in-chief, Respondent orally moved for the Panel to Dismiss this claim, after deliberation, the panel denied Respondents' 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. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with NASD Dispute Resolution ("NASD").

AWARD

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

1. Respondent, Citigroup Global Markets, Inc., is liable for and shall pay to Claimant, Peter C. Jarnberg, compensatory damages of Ninety Four Thousand One Hundred Twenty Six Dollars and No Cents (\$94,126.00);
2. Respondent, Citigroup Global Markets, Inc., is liable for and shall pay to Claimant, Peter C. Jarnberg, attorneys' fees of Seventy Thousand One Hundred Thirty Three Dollars and No Cents (\$70,133.00). In deciding this Award, the panel considered the Minnesota case law submitted as well as the pleading and arguments presented at the hearing. The panel has determined that authority exists for an Award of attorneys' fees to Claimant. The above referenced amount also includes Claimant, Peter C. Jarnberg's attorneys' fees relating to the probate action.
3. Respondent, Citigroup Global Markets, Inc., is liable for and shall pay to Claimant, Peter C. Jarnberg, expert witness fees of Seven Thousand Four Hundred Forty Six Dollars and No Cents (\$7,446.00);
4. Respondent, Citigroup Global Markets, Inc., is liable for and shall pay to Claimant, Peter C. Jarnberg, arbitration costs of Three Hundred Dollars and No Cents (\$300.00) reflecting the filing fee paid by Claimant in this arbitration;
5. Claimant's claims against Respondent, Jameson J. Viljaste, are denied and dismissed with prejudice;
6. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent, Jameson J. Viljaste's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent, Jameson J. Viljaste, 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 registered person was not involved in the alleged investment-related sales practice violation.

7. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, are denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 300

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. In this matter, the member firm is Citigroup Global Markets, Inc.

Member surcharge = \$ 1,700

Pre-hearing process fee = \$ 750

Hearing process fee = \$ 2,750

Adjournment Fees

Adjournments granted during these proceedings:

August 9-11, 2005 (Adjournment requested by Respondents)

Fee Assessed by the Panel = \$ 1,125

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

Two (2) Pre-hearing session with Panel x \$ 1,125 = \$ 2,250

Pre-hearing conferences:	03/02/2005	1 session
	07/27/2005	1 session

Four (4) Hearing sessions with Panel x \$ 1,125 = \$ 4,500

Hearing Dates:	10/26/2005	2 sessions
	10/27/2005	2 sessions

Total Forum Fees = \$ 6,750

The Arbitration Panel has assessed \$ 6,750 of the forum fees to Citigroup Global Markets, Inc.

FEE SUMMARY

Claimant, Peter C. Jarnberg, is liable for:

<u>Initial Filing Fee</u>	= \$ 300
Total Fees	= \$ 300
<u>Less payments</u>	= \$ 1,425
Balance Refunded By NASD Dispute Resolution	= \$ 1,125

Respondent, Citigroup Global Markets, Inc., is liable for:

Member Fees	= \$ 5,200
<u>Forum Fees</u>	= \$ 6,750
Total Fees	= \$ 11,950
<u>Less payments</u>	= \$ 8,975
Balance Due NASD Dispute Resolution	= \$ 2,975

Respondents, Citigroup Global Markets, Inc., and Jameson J. Viljaste, are jointly and severally liable for:

<u>Adjournment Fee</u>	= \$ 1,125
Total Fees	= \$ 1,125
<u>Less payments</u>	= \$ 1,125
Balance Due NASD Dispute Resolution	= \$ 0

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

NASD Dispute Resolution
Arbitration No. 04-06349
Award Page 6 of 6

ARBITRATION PANEL

Frederick Ramos, Esq. - Public Arbitrator, Presiding Chair
Emily B. Boote - Public Arbitrator
Donald F. James - Non-Public Arbitrator

Concurring Arbitrators:

Frederick Ramos, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Emily B. Boote
Public Arbitrator

Signature Date

Donald F. James
Non-Public Arbitrator

Signature Date

11/22/05
Date of Service (NASD use only)

NASD Dispute Resolution
Arbitration No. 04-06349
Award Page 6 of 6

ARBITRATION PANEL

Frederick Ramos, Esq. - Public Arbitrator, Presiding Chair
Emily B. Boote - Public Arbitrator
Donald F. James - Non-Public Arbitrator

Concurring Arbitrators:



Frederick Ramos, Esq.
Public Arbitrator, Presiding Chair

November 18, 2005

Signature Date

Emily B. Boote
Public Arbitrator

Signature Date

Donald F. James
Non-Public Arbitrator

Signature Date

11/22/05
Date of Service (NASD use only)

ARBITRATION PANEL

Frederick Ramos, Esq. - Public Arbitrator, Presiding Chair
Emily B. Boote - Public Arbitrator
Donald F. James - Non-Public Arbitrator

Concurring Arbitrators:

Frederick Ramos, Esq.
Public Arbitrator, Presiding Chair

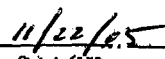

Emily B. Boote
Public Arbitrator

Signature Date


Signature Date

Donald F. James
Non-Public Arbitrator

Signature Date


Date of Service (NASD use only)

ARBITRATION PANEL

Frederick Ramos, Esq. - Public Arbitrator, Presiding Chair
Emily B. Boote - Public Arbitrator
Donald F. James - Non-Public Arbitrator

Concurring Arbitrators:

Frederick Ramos, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Emily B. Boote
Public Arbitrator

Signature Date

Donald F. James
Non-Public Arbitrator

Signature Date

11/22/05
Date of Service (NASD use only)

11-22-05