
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Jimmy Kenney
June Kenney

Case Number: 04-07416

Names of the Respondents

Citigroup Global Markets, Inc. f/k/a
Salomon Smith Barney Inc.
Rod Guercio
Robert Wiggins

Hearing Site: New Orleans, Louisiana

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

REPRESENTATION OF PARTIES

For Jimmy Kenney ("Jim Kenney") and June Kenney ("J. Kenney"), hereinafter collectively referred to as "Claimants": Richard S. Frankowski, Esq., Whatley Drake, LLC, Birmingham, Alabama.

For Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc. ("Citigroup"), Rod Guercio ("Guercio") and Robert Wiggins ("Wiggins"), hereinafter collectively referred to as "Respondents": Raul Sanchez, Associate General Counsel, Citigroup Global Markets, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: October 22, 2004.

Claimants signed the Uniform Submission Agreements: August 26, 2004.

Statement of Answer filed by Respondents on or about: December 16, 2004.

Respondent Citigroup signed the Uniform Submission Agreement: December 15, 2004.

Respondents Guercio and Wiggins did not file executed Uniform Submission Agreements.

Request for Sanctions, Motion to Compel Discovery and Request for a Continuance With Costs against Claimants filed by Respondents on or about: December 8, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; fraud; negligence; violation of state and federal securities laws; violations of NYSE and NASD rules; and, failure to supervise. The causes of action relate to Claimants' investment in various mortgage and asset backed securities, including government bonds, as well as the mutual fund, ING Fund.

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

RELIEF REQUESTED

Claimants requested compensatory damages in an amount of not less than \$250,000.00, disgorgement and restitution of all earnings, profits, compensation and benefits, lost opportunity costs, attorneys' fees and costs, pre and post-judgment interest, an unspecified amount of punitive damages, and such other relief as the Panel deems just and proper.

Respondents requested that Claimants' Statement of Claim be, in all respects, dismissed, with an award of Respondents' fees and expenses, including forum fees and all other costs of this proceeding. Additionally, Respondents requested the expungement of Claimants' claims from the NASD Central Registration Depository ("CRD") records of Respondents Guercio and Wiggins.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Guercio and Wiggins did not file with the NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code"), and having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

Respondents filed a request for sanctions in which Respondents asserted that Claimants are purposely withholding documents that would aid the arbitration Panel in determining the veracity of their claims, to which Claimants objected. On or about December 9, 2005, the Panel issued an Order that, among other things, denied Respondents' request for sanctions.

During the evidentiary hearing, Claimants asserted an ore tenus motion to dismiss Respondent Wiggins from this matter, which was granted by the Panel. Immediately thereafter, Respondent Wiggins restated his request for the expungement of this matter from his NASD CRD record, to which Claimants did not object.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimants' claims are denied in their entirety and dismissed with prejudice.

The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents Guercio's and Wiggins' registration records maintained by the CRD, with the understanding that pursuant to NASD notice to members 04-16, Respondents Guercio and Wiggins must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by 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 Panel has made the following affirmative findings of fact:

Respondents Wiggins and Guercio were not involved in the alleged investment- related sales practice violations.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages, are denied.

FEES

Pursuant to 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 firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, Respondent Citigroup is a member and a party.

| | |
|-------------------------|--------------|
| Member surcharge | = \$1,700.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$2,750.00 |

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred during these proceedings.

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 incurred in these proceedings.

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 incurred in these proceedings.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00/session = \$ 450.00
Pre-hearing conference: November 18, 2005 1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,125.00/session = \$2,250.00
Pre-hearing conferences: March 9, 2005 1 session
December 9, 2005 1 session

Four (4) Hearing sessions @ \$1,125.00 /session = \$4,500.00
Hearing Dates: December 14, 2005 2 sessions
December 15, 2005 2 sessions

Total Forum Fees = \$7,200.00

The Panel has assessed \$3,600.00 of the forum fees jointly and severally to Claimants.
The Panel has assessed \$3,600.00 of the forum fees jointly and severally to Respondents Citigroup and Guercio.

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 are 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 these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

| | |
|-------------------------------------|---------------------|
| Initial Filing Fee | = \$ 300.00 |
| <u>Forum Fees</u> | <u>= \$3,600.00</u> |
| Total Fees | = \$3,900.00 |
| <u>Less payments</u> | <u>= \$1,425.00</u> |
| Balance Due NASD Dispute Resolution | = \$2,475.00 |

Respondent Citigroup is solely liable for:

| | |
|-------------------------------------|---------------------|
| <u>Member Fees</u> | <u>= \$5,200.00</u> |
| Total Fees | = \$5,200.00 |
| <u>Less payments</u> | <u>= \$5,200.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

Respondents Citigroup and Guercio are jointly and severally liable for:

| | |
|-------------------------------------|---------------------|
| <u>Forum Fees</u> | <u>= \$3,600.00</u> |
| Total Fees | = \$3,600.00 |
| <u>Less payments</u> | <u>= \$2,450.00</u> |
| Balance Due NASD Dispute Resolution | = \$1,150.00 |

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

ARBITRATION PANEL

| | | |
|----------------------|---|--|
| Jason G. Ourso, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Ron Christner | - | Public Arbitrator |
| Arthur W. Pigott | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

/s/

12/20/05

Jason G. Ourso, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/

12/20/05

Ron Christner
Public Arbitrator

Signature Date

/s/

12/20/05

Arthur W. Pigott
Non-Public Arbitrator

Signature Date

December 20, 2005

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

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Concurring Arbitrators' Signatures



Jason G. Corso, Esq.
Public Arbitrator, Presiding Chairperson

12/20/05
Signature Date

Ron Christner
Public Arbitrator

Signature Date

Arthur W. Pigott
Non-Public Arbitrator

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