

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

---

**In the Matter of the Arbitration Between:**

**Daniel L. Cossette Living Trust, Daniel L. Cossette Trust, Daniel L. Cossette, Donna L. Cossette Living Trust, Donna & Daniel Cossett Tenants in Common, Claimants v. Citigroup Global Markets, Inc., and Carl R. Johnsen, Respondents**

**Case Number: 04-08219**

**Hearing Site: Portland, Oregon**

---

**Nature of the Dispute:** Customers v. Member and Associated Person

**REPRESENTATION OF PARTIES**

**For Claimants:**

**Richard M. Layne, Esq.  
Layne & Lewis LLP  
Portland, Oregon**

**For Respondent:**

**Joseph L. Calabrese, Esq.  
Citigroup Global Markets, Inc.  
New York, New York**

**CASE INFORMATION**

**Statement of Claim filed: December 1, 2004**

**Claimants' Joint Uniform Submission Agreement signed: December 17, 2004**

**Joint Statement of Answer filed by Respondents: April 18, 2005**

**Respondent Citigroup Global Markets, Inc.'s Uniform Submission Agreement signed:  
April 13, 2005**

**Respondent Carl R. Johnsen's Uniform Submission Agreement signed: March 22, 2005**

### **CASE SUMMARY**

Claimants alleged violation of Oregon Revised Statute §59.115 and Oregon Revised Statute §59.135, negligence, breach of fiduciary duty and failure to supervise involving unsuitable recommendations and transactions in Claimants' accounts.

Respondents denied the allegations of wrongdoing set forth in Claimants' Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested \$124,000.00 in compensatory damages, lost profits, pre-judgment interest at a rate of 9% per annum and costs, including attorney's fees.

Respondents requested dismissal of Claimants' Statement of Claim in its entirety.

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

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants' claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Carl R. Johnsen's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Carl R. Johnsen 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 claim is false.

4) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
--------------------------	-------------

#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Citigroup Global Markets, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 2,750.00</u>
<b>Total Member Fees</b>	<b>= \$ 5,200.00</b>

#### **Adjournment Fees**

The following adjournment fees are assessed:

February 14-17, 2006, adjournment by Respondent Citigroup Global Markets, Inc.	= \$ 1,125.00
--	---------------

The Panel assessed the adjournment fee to Respondent Citigroup Global Markets, Inc.

#### **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:

February 14-17, 2006, cancellation requested by Respondent Citigroup Global Markets, Inc.	= \$ 300.00
---	-------------

The Panel assessed the three-day cancellation fee to Respondent Citigroup Global Markets, Inc.

### **Forum Fees and Assessments**

The Panel assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

(2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$ 2,250.00
Pre-hearing conferences: May 26, 2005	1 session
February 14, 2006	1 session

(4) Hearing sessions @ \$1,125.00/session	= \$ 4,500.00
Hearings: March 29, 2006	2 sessions
March 30, 2006	2 sessions

---

<b>Total Forum Fees</b>	<b>= \$ 6,750.00</b>
-------------------------	----------------------

1. The Panel assessed \$3,375.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$3,375.00 of the forum fees jointly and severally to Respondents.

### **Fee Summary**

1. Claimants are charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 3,375.00</u>
Total Fees	= \$ 3,675.00
<u>Less payments</u>	<u>= \$(1,425.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 2,250.00</b>

2. Respondent Citigroup Global Market, Inc. is charged with the following fees and costs:

Member Fees	= \$5,200.00
Adjournment Fee	= \$1,125.00
<u>Three Day Cancellation Fees</u>	<u>= \$ 300.00</u>
Total Fees	= \$ 6,625.00
<u>Less payments</u>	<u>= \$(6,625.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

NASD Dispute Resolution

Arbitration No. 04-08219

Award Page 5 of 6

---

3. Respondents are charged jointly and severally with the following fees and costs:

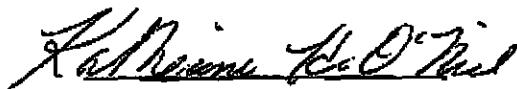
<u>Forum Fee</u>	= \$3,375.00
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 3,375.00</b>

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

**ARBITRATION PANEL**

Katherine H. O'Neil, Esq.	-	Public Arbitrator, Presiding Chair
Jo Mills Garcean	-	Public Arbitrator
Martha Jeanne Wilcoxson	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Katherine H. O'Neil, Esq.  
Chair, Public Arbitrator

4.4.06  
Signature Date

\_\_\_\_\_  
Jo Mills Garcean  
Public Arbitrator

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

\_\_\_\_\_  
Martha Jeanne Wilcoxson  
Non-Public Arbitrator

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

April 4, 2006  
Date of Service

**ARBITRATION PANEL**

Katherine H. O'Neil, Esq.	-	Public Arbitrator, Presiding Chair
Jo Mills Garceau	-	Public Arbitrator
Martha Jeanne Wilcoxson	-	Non-Public Arbitrator

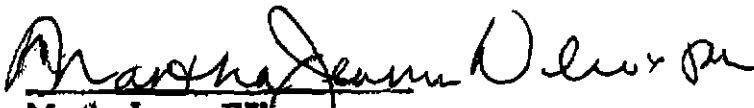
**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Katherine H. O'Neil, Esq.  
Chair, Public Arbitrator

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

\_\_\_\_\_  
Jo Mills Garceau  
Public Arbitrator

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

  
\_\_\_\_\_  
Martha Jeanne Wilcoxson  
Non-Public Arbitrator

4-4-06  
\_\_\_\_\_  
Signature Date

April 4, 2006  
\_\_\_\_\_  
Date of Service