

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Mike Small

and

05-00464
Chicago, Illinois

Name of Respondent

Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc.

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Mike Small ("**Claimant**") was represented by Erwin Cohn, Esq., Cohn & Cohn, Chicago, Illinois. Claimant was originally represented by Martin Q. Ryan, Esq. and Alec J. Miller, Esq., Mora, Baugh, Waitzman & Unger, LLC, Chicago, Illinois.

Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc. ("**Respondent**") was represented by Alejandro Schwed, Esq., Citigroup Global Markets, Inc., New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about January 28, 2005. Amended Statement of Claim was filed on or about May 17, 2006. Submission Agreement of Claimant Mike Small was signed on January 27, 2005.

Statement of Answer was filed by Respondent Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc. on or about March 24, 2005. Statement of Answer of Citigroup Global Markets, Inc. to Claimant's Amended Statement of Claim was filed on or about July 14, 2006. Submission Agreement of Respondent Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc. was signed on March 18, 2005 by Alejandro Schwed.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty, failure to supervise, violations of The Securities Exchange Act, violations of the Illinois Securities Act, common law fraud and misrepresentation, constructive fraud, negligence and breach of contract, negligence and negligent supervision, respondeat superior, and violation of

consumer fraud statutes. The causes of action relate to Claimant's allegations that his account was abandoned and that the Financial Consultants failed to advise him of the risks associated with a margin account.

Respondent denied the allegations set forth in the Statement of Claim. Respondent specifically stated as follows:

Once it became clear that the Claimant would not follow Ms. McPeek's advice, the account was reassigned to another Financial Consultant within Citigroup, Jeffrey Simon. There was no gap between the two. The losses were as a result of the Claimant's refusal to pare down his overconcentrated position in a very risky stock he transferred from another firm, which lost over \$384,338 in five months in 2001. This was compounded by the Claimant's leverage of his portfolio during a declining market. Both the holding of this stock, and the leverage, were against the advice of both Ms. McPeek and Mr. Simon, but consistent with the Claimant's a [sic] strategy before he came to Citigroup.

The Claimant's complaint that he was not advised of the risks of margin at the time that he made the only two investments at Citigroup is both false and ludicrous. The Claimant was repeatedly warned about the risks of margin, both before he transferred his accounts, and while at Citigroup. His failure to follow that advice is in fact what led his Financial Consultants to decide they no longer wanted the Claimant as a client. Furthermore, the Claimant had maintained substantial margin debts for years before coming to Citigroup. He was well aware of the risks involved with that type of trading.

RELIEF REQUESTED

In his Amended Statement of Claim, Claimant requested that he be awarded compensatory damages equivalent to his actual investment losses as determined by the Panel, not in excess of \$1,000,000.00, plus pre-judgment interest, well managed account damages, attorney's fees and costs; disgorgement of all commission and fees and assessment of all forum fees and costs to Respondent.

Respondent requested that the claim be dismissed and that all costs be assessed against Claimant.

OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "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. Rule in favor of Respondent and against Claimant.
2. Claimant Mike Small is liable for and shall pay to Respondent Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc. the sum of \$15,000.00 (**Fifteen Thousand Dollars**) as costs.
3. That 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.
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

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 = \$375.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) is Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc.

Member surcharge	\$	2,250.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	4,000.00
Total Member Fees	\$	<u>7,000.00</u>

Adjournment Fees

Adjournments requested during these proceedings:

Hearing Date(s), February 22-24, 2006, adjournment requested by Respondent (fee waived). = \$1,200.00

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

1	Pre-hearing session(s) with a single arbitrator	x	\$450.00	\$	450.00
	December 12, 2005	1	session		
3	Pre-hearing session(s) with Panel	x	1,200.00	\$	3,600.00
	June 10, 2005	1	session		
	February 23, 2006	1	session		
	March 16, 2006	1	session		
4	Hearing sessions	x	1,200.00	\$	4,800.00
	August 15, 2006	2	sessions		
	August 16, 2006	2	sessions		
	Total Forum Fees			\$	<u>8,850.00</u>

The Arbitration Panel has assessed \$8,850.00 of the forum fees to Mike Small.

Fee Summary

Claimant, Mike Small, is liable for:

Initial Filing Fee	= \$	375.00
<u>Forum Fees</u>	= \$	<u>8,850.00</u>
Total Fees	= \$	9,225.00
<u>Less payments</u>	= \$	<u>-1,425.00</u>
Balance Due NASD Dispute Resolution	= \$	7,800.00

Respondent, Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney Inc., is liable for:

Member Fees	= \$	7,000.00
Total Fees	= \$	7,000.00
<u>Less payments</u>	= \$	<u>-5,200.00</u>
Balance Due NASD Dispute Resolution	= \$	1,800.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Gordon B. Shneider, Esq. - Public Arbitrator, Presiding Chair
Loren R. Miller, III - Public Arbitrator
Hiram A. Evans, CPA, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

Gordon B. Shneider
Gordon B. Shneider, Esq.
Public Arbitrator, Presiding Chair

8/25/06
Signature Date

Loren R. Miller, III
Loren R. Miller, III
Public Arbitrator

Signature Date

Hiram A. Evans, CPA, Esq.
Hiram A. Evans, CPA, Esq.
Non-Public Arbitrator

Signature Date

8/28/06
Date of Service (For NASD office use only)

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