

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

---

In the Matter of the Arbitration Between:

The 1997 Robert H. Lorsch Family Trust, Claimant v. Salomon Smith Barney n/k/a Citigroup Global Markets, Inc. and McRee Winston Smith, Respondents

Case Number: 05-00717

Hearing Site: Los Angeles, California

---

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

**REPRESENTATION OF PARTIES**

For Claimant:

Robert M. Yaspan, Esq.  
Yaspan & Thau  
Woodland Hills, California

For Respondents:

Stacy M. Garrett, Esq.  
Bentley P. Stansbury, III, Esq.  
Keesal, Young & Logan  
Long Beach, California

**CASE INFORMATION**

Statement of Claim filed: February 3, 2005

Claimant's Uniform Submission Agreement filed: March 17, 2005

Joint Statement of Answer filed by Respondents: June 7, 2005

Respondent Citigroup Global Markets, Inc.'s Uniform Submission Agreement filed:  
April 26, 2005

Respondent McRee W. Smith's Uniform Submission Agreement filed: June 7, 2005

Motions to Dismiss filed by Respondents: February 2, 2006 and March 3, 2006

Opposition to Respondents' Motions to Dismiss filed by Claimant: February 17, 2006 and March 20, 2006

Reply in Support of Motions to Dismiss filed by Respondents: February 23, 2006 and March 23, 2006

### **CASE SUMMARY**

Claimant alleged breach of contract, misrepresentation and omissions of fact, negligence, and failure to supervise. Claimant's allegations were based on Respondents' alleged recommendations to buy and sell securities in which Respondent Citigroup "had undisclosed financial interests." Claimant also alleged that Claimant's trustee received communications from Respondent Citigroup's telecom analyst, Jack Grubman, and that he relied on Mr. Grubman's "analysis to invest in high-tech companies" including, but not limited to, Global Crossing, Yahoo, and AOL.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested in excess of \$5,000,000.00 in compensatory damages.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety, and costs, including attorney's fees. Respondents also requested expungement of all reference to the above captioned arbitration from Respondent McRee Winston Smith's registration records maintained by the NASD Central Registration Depository.

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

On February 2, 2006, Respondents filed a Motion to Dismiss based on Claimant's failure to comply with the Chairperson's Discovery Order dated January 18, 2006. On February 17, 2006, Claimant filed an Opposition thereto. Respondents filed a Reply on February 23, 2006.

On March 3, 2006, Respondents filed a Motion to Dismiss pre-March 18, 1999 claims based on NASD Code of Arbitration Procedure Rule 10304 and to limit post-1999 claims to those transactions identified by Claimant. Claimant filed an Opposition to Respondents' Second Motion to Dismiss on March 20, 2006, and Respondents filed a Reply on March 23, 2006.

On April 13, 2006, the parties and the Panel held a telephonic pre-hearing conference with respect to Respondents' Motions to Dismiss. Robert M. Yaspan, Esq. appeared for Claimant. Bentley P. Stansbury, III, Esq. appeared for Respondents. After due deliberation, the Panel granted

Respondents' Motion to Dismiss based on Claimant's failure to comply with the Chairperson's Discovery Order dated January 18, 2006.

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 hearing oral argument on Respondents' Motions to Dismiss, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents' Motion to Dismiss Based on Claimant's Failure to Comply with the Chairperson's Discovery Order dated January 18, 2006 is granted.
- 2) Claimant's Statement of Claim is dismissed with prejudice.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 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	= \$ 600.00
--------------------------	-------------

#### **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	= \$3,350.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$5,500.00</u>
<b>Total Member Fees</b>	<b>= \$9,600.00</b>

#### **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, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: January 18, 2006 1 session	

Two (2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$2,400.00
Pre-hearing conferences: August 10, 2005 1 session	
April 13, 2006 1 session	

<b>Total Forum Fees</b>	<b>= \$2,850.00</b>
-------------------------	---------------------

1. The Panel assessed \$1,425.00 of the forum fees to Claimant.
2. The Panel assessed \$1,425.00 of the forum fees jointly and severally to Respondents Citigroup Global Markets, Inc. and McRee Winston Smith.

**Fee Summary**

1. Claimant the 1997 Robert H. Lorsch Family Trust is charged with the following fees and costs:

Initial Filing Fee	= \$ 600.00
<u>Forum Fees</u>	= \$ 1,425.00
Total Fees	= \$ 2,025.00
<u>Less payments</u>	= \$(1,800.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 225.00</b>

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

Member Fees	= \$ 9,600.00
<u>Less payments</u>	= \$(9,600.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

3. Respondents Citigroup Global Markets, Inc. and McRee Winston Smith are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$ 1,425.00
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,425.00</b>

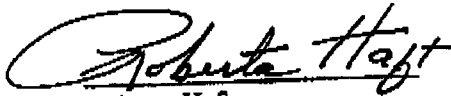
All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

*Roberta Haft*  
*G. Timothy Haight,*  
*Barbara L. Olsen, Esq.*

*Public Arbitrator, Presiding Chair*  
*Public Arbitrator*  
*Non-Public Arbitrator*

Concurring Arbitrators' Signatures



Roberta Haft  
Chair, Public Arbitrator

4-20-06  
Signature Date

\_\_\_\_\_  
G. Timothy Haight  
Public Arbitrator

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

\_\_\_\_\_  
Barbara L. Olsen, Esq.  
Non-Public Arbitrator

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

April 20, 2006  
Date of Service

**ARBITRATION PANEL**

<i>Roberta Haft</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>G. Timothy Haight,</i>	-	<i>Public Arbitrator</i>
<i>Barbara L. Olsen, Esq.</i>	-	<i>Non-Public Arbitrator</i>

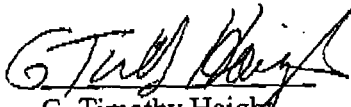
**Concurring Arbitrators' Signatures**

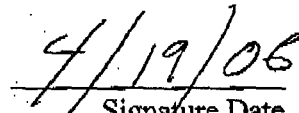
---

Roberta Haft  
Chair, Public Arbitrator

---

Signature Date

  
G. Timothy Haight  
Public Arbitrator

  
Signature Date

---

Barbara L. Olsen, Esq.  
Non-Public Arbitrator

---

Signature Date

April 20, 2006  
Date of Service

**ARBITRATION PANEL**

<b><i>Roberta Haft</i></b>	-	<b><i>Public Arbitrator, Presiding Chair</i></b>
<b><i>G. Timothy Haight,</i></b>	-	<b><i>Public Arbitrator</i></b>
<b><i>Barbara L. Olsen, Esq.</i></b>	-	<b><i>Non-Public Arbitrator</i></b>


**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Roberta Haft  
Chair, Public Arbitrator

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

\_\_\_\_\_  
G. Timothy Haight  
Public Arbitrator

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

  
Barbara L. Olsen, Esq.  
Non-Public Arbitrator

4/19/06  
\_\_\_\_\_  
Signature Date

April 20, 2006  
\_\_\_\_\_  
Date of Service