

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

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In the Matter of the Arbitration Between:

Yvan Bourque and Cheri Bourque (Claimants) vs. Citigroup Global Markets f/k/a Salomon Smith Barney (Respondent)

Case Number: 05-01147

Hearing Site: Albany, New York

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Nature of the Dispute: Customers vs. Member

**REPRESENTATION OF PARTIES**

Claimants Yvan Bourque ("Y. Bourque") and Cheri Bourque ("C. Bourque") hereinafter referred to as "Claimants": Vincent J. Imbesi, Esq., Avelino and Associates, P.C., New York, NY.

Citigroup Global Markets f/k/a Salomon Smith Barney ("Citigroup") hereinafter referred to as "Respondent": Raul Sanchez, Esq., Citigroup Global Markets, Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: March 4, 2005.

Y. Bourque signed the Uniform Submission Agreement: July 3, 2004.

C. Bourque signed the Uniform Submission Agreement: July 3, 2004.

Answer to the Statement of Claim filed on or about: June 7, 2005.

Citigroup signed the Uniform Submission Agreement: July 7, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty; unsuitable transactions; failure to supervise; misrepresentations; negligence; omission of facts and breach of contract. The causes of action relate to the trading of unspecified stocks.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$90,000.00, interest, attorney's fees, costs and for such other relief as the Panel may deem just and proper.

Respondent requested that Claimants' claims be dismissed in their 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are dismissed in their entirety.
2. Any and all relief not specifically addressed herein is denied.

### **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	= \$	225.00
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#### **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 persons at the time of the events giving rise to the dispute. Accordingly, Citigroup Global Markets f/k/a Salomon Smith Barney is a party.

Member surcharge	= \$	1,100.00
Pre-hearing process fee	= \$	750.00
Hearing process fee	= \$	1,700.00

#### **Forum Fees and Assessments**

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

Two (2) Decisions on discovery-related motions on the papers with one arbitrator @ \$200.00	= \$ 400.00
Respondent submitted two (2) discovery-related motions	

One (1) Pre-hearing conference session with Panel @ \$750.00 per session	= \$ 750.00
Pre-hearing conference: September 29, 2005	1 session

Three (3) Hearing sessions with Panel @ \$750.00 per session	= \$2,250.00
May 9, 2006	3 sessions

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Total Forum Fees =\$3,400.00

1. The Panel has assessed \$3,400.00 of the forum fees against the Respondent.

**Fee Summary**

1. Claimants are solely liable for:

<u>Initial Filing Fee</u>	= \$	225.00
<u>Total Fees</u>	= \$	225.00
<u>Less payments</u>	= \$	975.00
<u>Refund due Claimants</u>	= \$	750.00

2. Respondent is solely liable for:

<u>Member Fees</u>	= \$	3,550.00
<u>Forum Fees</u>	= \$	3,400.00
<u>Total Fees</u>	= \$	6,950.00
<u>Less payments</u>	= \$	3,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$	3,400.00

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

Jeffrey G. Sommers  
William M. Peters, Sr.  
Steven R. LaBarge

- Public Arbitrator, Presiding Chairperson  
- Public Arbitrator  
- Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



Jeffrey G. Sommers  
Public Arbitrator, Presiding Chairperson

Jun 2<sup>nd</sup>, 2006

Signature Date

William M. Peters, Sr.  
Public Arbitrator

Signature Date

Steven R. LaBarge  
Non-Public Arbitrator

Signature Date

June 1, 2006  
Date of Service (For NASD Dispute Resolution use only)

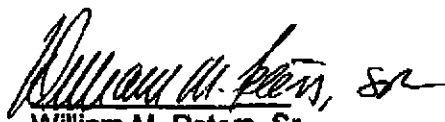
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William M. Peters, Sr.  
Steven R. LaBarge

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- Public Arbitrator  
- Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Jeffrey G. Sommers  
Public Arbitrator, Presiding Chairperson

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Signature Date

  
William M. Peters, Sr.  
Public Arbitrator

May 31, 2006  
Signature Date

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Steven R. LaBarge  
Non-Public Arbitrator

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

\_\_\_\_\_  
June 1, 2006  
Date of Service (For NASD Dispute Resolution use only)

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Public Arbitrator, Presiding Chairperson

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Signature Date

\_\_\_\_\_  
William M. Peters, Sr.  
Public Arbitrator

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

  
\_\_\_\_\_  
Steven R. LaBarge  
Non-Public Arbitrator

5-31-06  
Signature Date

June 1, 2006

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)