

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Jeffrey Harris and Mary Anderson, Claimants v. Citicorp Investment Services, William B. Howard and Michael G. Myllek, Respondents

Case Number: 05-01303

Hearing Site: San Francisco, California

Nature of the Dispute: Customers vs. Member and Associated Persons

REPRESENTATION OF PARTIES

For Claimants:

Timothy A. Canning, Esq.
Attorney At Law
Novato, California

For Respondents:

John C. Steele, Esq.
Zelle, Hofmann, Voelbel,
Mason & Gette LLP
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: March 10, 2005

Claimants' Uniform Submission Agreement signed: January 17, 2005

Statement of Answer filed by Respondent Citicorp Investment Services ("Citicorp"):
May 18, 2005

Statement of Answer filed by Respondent William B. Howard: May 2, 2005

Additional Statement of Answer filed by Respondent William B. Howard: May 11, 2005

Respondent Citicorp's Uniform Submission Agreement signed: May 6, 2005

Respondent William B. Howard's Uniform Submission Agreement signed: April 27,
2005

CASE SUMMARY

Claimants alleged the following claims with respect to the handling of their accounts: 1) Fraud; 2) Negligence; 3) Breach of Contract; 4) Breach of Fiduciary Duty; 5) Misrepresentation; 6) Unsuitability; 7) Churning; and 8) Failure to Supervise. Claimants' dispute involved investments in various unspecified securities.

In separately filed Statements of Answer, Respondents denied Claimants' allegations of wrongdoing and denied any liability to Claimants. Respondents also asserted affirmative defenses.

RELIEF REQUESTED

Claimants requested:

1. Compensatory damages in the amount of \$350,000.00 or more;
2. Damages of not less than \$100,000.00 (subject to proof at hearing) for lost income;
3. Reimbursement of the reasonable costs associated with arbitration, including filing fees and hearing session fees;
4. Punitive and exemplary damages; and
5. Disciplinary referrals to the appropriate regulatory agencies as the Panel deems appropriate.

Respondent Citicorp requested:

1. That Claimants' Statement of Claim be dismissed in its entirety; and
2. Such other and further relief as the Panel deems appropriate.

Respondent William B. Howard requested:

1. Dismissal of Claimants' claims;
2. Costs; and
3. Such other and further relief as the Panel finds just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about April 14, 2005, Claimants withdrew their claims against Respondent Michael G. Myllek.

On April 15, 2005, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100 the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

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. All claims by Claimants, including the claims for punitive and exemplary damages, are denied.
2. Each party shall bear its own costs, including attorney's fees.
3. All other relief 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
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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, Citicorp 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>
Total Member Fees	= \$5,200.00

Adjournment Fees

The following adjournment fees are assessed:

The Parties agreed to postpone the January 30-31, and February 1-3, 2006, hearing dates in order to mediate their dispute through NASD Dispute Resolution. Pursuant to Rule 10403(b) of the Code, no postponement fee was assessed.

The Panel granted Respondent Citicorp's request to postpone the September 25-28, 2006, hearing dates and waived the \$1,125.00 postponement fee.

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(3) Pre-hearing conference sessions with the Panel			
@ \$1,125.00/session			= \$3,375.00
Pre-hearing conferences:	July 11, 2005	1 session	
	January 23, 2006	1 session	
	September 29, 2006	1 session	
(9) Hearing sessions @ \$1,125.00/session			= \$10,125.00
Hearing Dates:	January 22, 2007	2 sessions	
	January 23, 2007	2 sessions	
	January 24, 2007	2 sessions	
	January 25, 2007	2 sessions	
	January 26, 2007	1 session	
Total Forum Fees			= \$13,500.00

The Panel assessed \$6,750.00 of the forum fees jointly and severally to Claimants.

The Panel assessed \$6,750.00 of the forum fees to Respondent Citicorp.

Fee Summary

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

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 6,750.00
Total Fees	= \$ 7,050.00
Less Payments	= \$(1,425.00)
Less Unused Mediation Deposit	= \$(525.00)
Balance Due NASD Dispute Resolution	= \$ 5,100.00

2. Respondent Citicorp is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 6,750.00
Total Fees	= \$ 11,950.00
Less Payments	= \$(5,850.00)
Less Unused Mediation Deposit	= \$(525.00)
Balance Due NASD Dispute Resolution	= \$ 5,575.00

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

ARBITRATION PANEL

Michael Garcia	-	Public Arbitrator, Presiding Chair
Jonathan H. Krotinger	-	Public Arbitrator
Rudy E. Thorwirth	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Michael Garcia
Michael Garcia
Chair, Public Arbitrator

February 3, 2007
Signature Date

Jonathan H. Krotinger
Jonathan H. Krotinger
Public Arbitrator

Signature Date

Rudy E. Thorwirth
Rudy E. Thorwirth
Non-Public Arbitrator

Signature Date

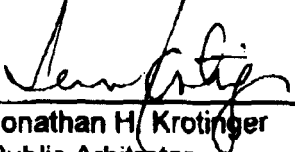
2/5/07
Date of Service

ARBITRATION PANEL

Michael Garcia	-	Public Arbitrator, Presiding Chair
Jonathan H. Krotinger	-	Public Arbitrator
Rudy E. Thorwirth	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Michael Garcia
Chair, Public Arbitrator



Jonathan H. Krotinger
Public Arbitrator

Signature Date

2/2/07

Signature Date

Rudy E. Thorwirth
Non-Public Arbitrator

Signature Date

2/5/07

Date of Service

ARBITRATION PANEL

Michael Garcia	-	Public Arbitrator, Presiding Chair
Jonathan H. Krottinger	-	Public Arbitrator
Rudy E. Thorwirth	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Michael Garcia
Chair, Public Arbitrator

Signature Date

Jonathan H. Krottinger
Public Arbitrator

Signature Date

Rudy E. Thorwirth
Non-Public Arbitrator

February 5, 2007
Signature Date

2/5/07
Date of Service