

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Claimant

Thomas Dodd

and

Case Number: 05-01931  
Hearing Site: Chicago, Illinois

Respondent

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

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**NATURE OF DISPUTE**

Customer v. Member

**REPRESENTATION OF PARTIES**

Thomas Dodd ("Claimant") was represented by James J. Eccleston, Esq. and Ronald M. Amato, Esq., Shaheen, Novoselsky, Staat, Filipowski & Eccleston, P.C., Chicago, Illinois.

Citigroup Global Markets, Inc., f/k/a Salomon Smith Barney, Inc. ("Respondent") was represented by William A. Hohausser, Esq., Citigroup Global Markets, Inc., New York, New York, until on or about May 16, 2006. After that date, Patrick G. King, Esq. and Jerry M. Santangelo, Esq., Neal, Gerber & Eisenberg, LLP, Chicago, Illinois, appeared on behalf of Respondent.

**CASE INFORMATION**

The Statement of Claim was filed on or about April 12, 2005. The Submission Agreement of Thomas Dodd was signed undated.

The Statement of Answer was filed by Respondent on or about June 24, 2005. Respondent's Submission Agreement was signed by William A. Hohausser, Director and Associate General Counsel, Citigroup Global Markets, Inc. on or about June 22, 2005.

Respondent filed a Motion to Dismiss the Statement of Claim on or about May 17, 2006. Claimant filed a Response to Motion to Dismiss and a Motion to Bar Facts and Affirmative Defenses Not Asserted in the Answer on or about May 30, 2006. Respondent filed a Reply in Support of its Motion to Dismiss the Statement of Claim on or about June 14, 2006.

### **CASE SUMMARY**

Claimant asserted the following causes of action: breach of Illinois Securities Law of 1953; violation of the Illinois Consumer Fraud and Deceptive Business Practices Act; failure to supervise; negligence; negligent misrepresentation; breach of fiduciary duty; breach of contract; and failure to supervise. The causes of action related to Claimant's allegation that Respondent moved assets from his income-generating IRA account to an aggressive growth Portfolio Management IRA account which was over concentrated in unspecified technology and telecommunications stocks. Claimant asserted that this strategy was not in accordance with his investment objectives and risk tolerance.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and made statements including the following: Claimant made an informed decision to enter into the Portfolio Management account; Claimant requested that his account be restructured so as to place greater emphasis on growth as opposed to income; declines in value to the Portfolio Management account did not represent losses but were a leavening of unrealized gains; and Claimant was the initiator of the investment strategy.

### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$200,155.00
Interest	\$ unspecified
Attorneys' Fees	\$ unspecified
Other Costs	\$ unspecified
Other Monetary/Non-Monetary Relief:	\$ unspecified

Respondent requested that the claims asserted against it be dismissed in their entirety and that it be awarded its costs and attorneys' fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

In its Order entered on June 15, 2006, the panel denied Claimant's Motion to Bar Facts and Affirmative Defenses Not Asserted in Respondent's Answer and deferred further consideration of Respondent's Motion to Dismiss the Statement of Claim until at least the conclusion of Claimant's case-in-chief.

During the hearing, at the conclusion of Claimant's case-in-chief, the panel further deferred ruling on Respondent's Motion to Dismiss the Statement of Claim until the close of all of the evidence.

After the conclusion of all of the evidence and having heard the closing arguments of counsel for the parties and having considered the legal authorities submitted by the parties, Citigroup Global Markets, Inc., f/k/a Salomon Smith Barney, Inc.'s Motion to Dismiss the Statement of Claim, based upon statutes of limitations and repose, is granted.

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 NASD Dispute Resolution ("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.) Claimant's claims, each and all, are denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3.) Any relief not specifically enumerated, including attorneys' fees, is hereby denied with prejudice.

### **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	= \$ 300.00
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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 person at the time of the events giving rise to the dispute. In this matter, the member firm is Citigroup Global markets, Inc., f/k/a Salomon Smith Barney, Inc.

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

Hearing process fee = \$ 2,750.00

**Forum Fees and Assessments**

The Panel has assessed forum fees for each hearing session conducted and each decision rendered on a discovery-related motion on the papers. A hearing 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) Pre-hearing sessions with Panel x \$1,125.00	= \$ 2,250.00
Pre-hearing conferences:	
August 20, 2005	1 session
June 14, 2006	1 session

Seven (7) Hearing sessions x \$1,125.00	= \$ 7,875.00
Hearing Dates:	
June 20, 2006	2 sessions
June 21, 2006	3 sessions
June 22, 2006	2 sessions

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Total Forum Fees = \$ 10,125.00

The Arbitration Panel has assessed \$10,125.00 of the forum fees to Citigroup Global markets, Inc., f/k/a Salomon Smith Barney, Inc.

**Fee Summary**

Claimant, Thomas Dodd, is liable for:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$ 1,425.00
Balance Refunded by NASD Dispute Resolution	= \$ 1,125.00

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

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 10,125.00
Total Fees	= \$ 15,325.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 10,125.00

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

**ARBITRATION PANEL**

Jeffrey M. Bain, Esq. - Public Arbitrator, Presiding Chair  
William R. Jackson, Jr., Esq. - Public Arbitrator  
Suanne F. Goldman - Non-Public Arbitrator

**Concurring Arbitrators:**

/s/ Jeffrey M. Bain, Esq.  
Jeffrey M. Bain, Esq.  
Public Arbitrator, Presiding Chair

July 7, 2006  
Signature Date

/s/ William R. Jackson, Jr., Esq.  
William R. Jackson, Jr., Esq.  
Public Arbitrator

July 7, 2006  
Signature Date

Suanne F. Goldman  
Suanne F. Goldman  
Non-Public Arbitrator

Signature Date

July 10, 2006  
Date of Service (For NASD office use only)

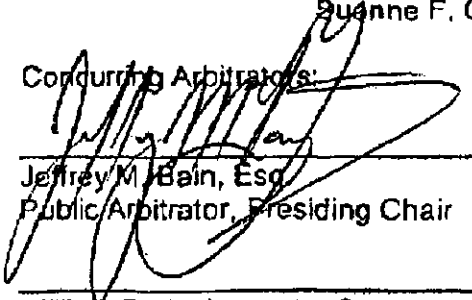
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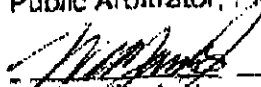
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7/7/06  
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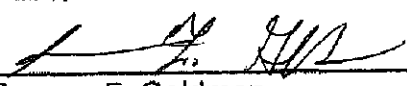
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6-11-06  
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Signature Date

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