

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

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In the Matter of the Arbitration Between:

Myer David Snowise and Myra Waynik (Claimants) vs. Citigroup Global Markets, Inc. d/b/a Smith Barney (Respondent)

Case Number: 05-02760

Hearing Site: Hartford, Connecticut

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Nature of the Dispute: Customers vs. Member

**REPRESENTATION OF PARTIES**

Claimants Myer David Snowise ("Snowise") and Myra Waynik ("Waynik"), hereinafter collectively referred to as "Claimants": Jeffrey Erez, Esq., Sonn & Erez, Fort Lauderdale, FL.

Respondent Citigroup Global Markets, Inc. hereinafter referred to as "Respondent": Alejandro Schwed, Esq., Associate General Counsel, Citigroup Global Markets, Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: May 25, 2005.

Claimants' Response to Motion to Limit Claim filed on or about: August 22, 2005.

Claimant Snowise signed the Uniform Submission Agreement: May 19, 2005.

Claimant Waynik signed the Uniform Submission Agreement: May 19, 2005.

Statement of Answer and Motion to Limit the Claim filed by Respondent on or about: August 3, 2005.

Respondent signed the Uniform Submission Agreement: August 3, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action: suitability, failure to diversify, breach of fiduciary duty, negligence, omission of facts, negligent supervision, and violation of the Connecticut Securities Laws. The causes of action relate to aggressive mutual funds, including Putnam New Opportunities Fund, Smith Barney Aggressive Growth Fund, Alliance Premier Growth Fund, Alliance Growth Fund, Putnam Voyager, Van Kampen Telecom UIT, and Van Kampen Global Wireless UIT.

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

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$1,000,000.00, interest, attorneys' fees, costs, and such other and further relief the Panel deems just and proper.

Respondent requested that the Statement of Claim be dismissed in its entirety and all costs be assessed against Claimants.

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

NASD Dispute Resolution scheduled four pre-hearing conferences in this matter on October 25, 2005, November 28, 2005, and January 30, 2006. Claimant failed to appear at the four telephonic conferences that were scheduled. As a result, the Panel determined to dismiss the matter without prejudice.

Respondent, the only party to appear at the telephonic conference 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 without prejudice in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, 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	= \$ 375.00
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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. Accordingly, Citigroup Global Markets, Inc. is a party.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00

#### **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) Pre-hearing sessions with Panel @ \$1,200.00	= \$ 2,400.00
Pre-hearing conferences: November 28, 2005 1 session	
January 30, 2006 1 session	
<hr/> Total forum fees	<hr/> = \$ 2,400.00

1. The Panel has assessed \$1,800.00 of the forum fees to Claimants.
2. The Panel has assessed \$ 600.00 of the forum fees to Respondent.

**Fee Summary**

1. Claimants are jointly and severally liable for:	
Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	<u>= \$ 1,800.00</u>
Total Fees	= \$ 2,175.00
<u>Less payments</u>	<u>= \$ 1,575.00</u>
Balance Due NASD Dispute Resolution	= \$ 600.00
2. Respondent is solely liable for:	
Member Fees	= \$ 3,000.00
<u>Forum Fees</u>	<u>= \$ 600.00</u>
Total Fees	= \$ 3,600.00
<u>Less payments</u>	<u>= \$ 3,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 600.00

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

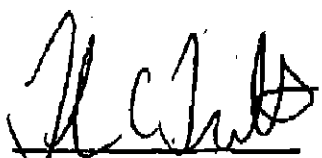
**ARBITRATION PANEL**

Charles H. Resnick, Esq.	-	Public Arbitrator Presiding Chairperson
Thomas C. Tretter, Esq.	-	Public Arbitrator
Peter Svorinic	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Charles H. Resnick, Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date

  
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Thomas C. Tretter, Esq.  
Public Arbitrator

2/15/06  
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Signature Date

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Peter Svorinic  
Non-Public Arbitrator

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

February 23, 2006  
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Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Charles H. Resnick, Esq.	-	Public Arbitrator Presiding Chairperson
Thomas C. Tretter, Esq.	-	Public Arbitrator
Peter Svorinic	-	Non-Public Arbitrator

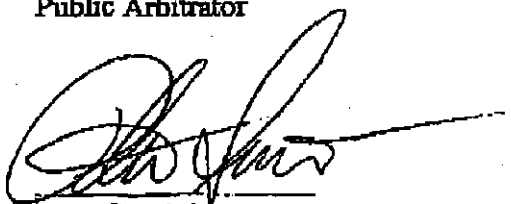
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Thomas C. Tretter, Esq.  
Public Arbitrator

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Signature Date

  
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Peter Svorinic  
Non-Public Arbitrator

2/15/06  
\_\_\_\_\_  
Signature Date

February 26, 2006  
Date of Service (For NASD Dispute Resolution use only)