

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Juan Miguel Garcia

Case Number: 05-03017

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

Hearing Site: Boca Raton, Florida

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Nature of the Dispute: Associated Person vs. Member.

**REPRESENTATION OF PARTIES**

For Juan Miguel Garcia, hereinafter referred to as "Claimant": Curtis Carlson, Esq., Carlson & Lewittes, P.A., Miami, Florida.

For Citigroup Global Markets, Inc., f/k/a Salomon Smith Barney, Inc. ("Citigroup"), hereinafter referred to as "Respondent": Holly R. Skolnick, Esq., Greenberg Traurig, P.A., Miami, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: June 10, 2005.

Claimant signed the Uniform Submission Agreement: June 6, 2005.

Statement of Answer in Support of Motion to Dismiss filed by Respondent on or about: September 2, 2005.

Respondent signed the Uniform Submission Agreement: August 31, 2005.

Claimant's Response to Respondent's Motion to Dismiss filed on or about: December 28, 2005.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of the express and implied terms of an employment agreement; breach of customs and practices in the industry; breach of equitable and just principles of trade; unfair competition; and, tortious interference with advantageous business relationships. The causes of action relate to Claimant's termination of employment with Respondent.

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 \$4 million; unspecified punitive damages; pre-award interest; and, forum fees and costs, including expert

witness fees.

Respondent requested dismissal of the Statement of Claim.

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

On or about September 5, 2005, Respondent filed with NASD Dispute Resolution a Motion to Dismiss, wherein Respondent alleged that Claimant failed to articulate a legal claim. On or about December 28, 2005, Claimant filed his objection to Respondent's Motion to Dismiss. On or about January 13, 2006, the Panel conducted a telephonic pre-hearing conference on Respondent's Motion to Dismiss and then, after careful consideration, entered an Order denying Respondent's Motion to Dismiss.

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.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable on the claims of breach of customs and practices of the industry and unfair competition. Respondent shall pay to Claimant compensatory damages in the amount of \$1,820,000.00, plus interest at the Florida Statutory rate from June 14, 2004, until the date of payment of the Award.

The Panel determined that Claimant was treated disparately from other employees and that he did not receive the level of management assistance accorded other employees. Accordingly, pursuant to Florida Statutes 768.72 - 768.725 and 768.73, Respondent is liable and shall pay to Claimant punitive damages in the amount of \$1,750,000.00.

The Panel recommends that the Form U-5 filed by Respondent in connection with the termination of Claimant's employment at Citigroup be amended from "permitted to resign" to "discharged".

Any and all claims for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 600.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent Citigroup is a member firm and a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00
Total Member Fees	= \$8,550.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

April 25-28, 2006, adjournment requested by Claimant. = \$1,200.00

October 23-27, 2006, adjournment requested by Respondent. = \$1,200.00

The Panel has assessed adjournment fees of \$1,200.00 to Claimant.

The Panel has assessed adjournment fees of \$1,200.00 to Respondent.

### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No three-day cancellation fees were incurred in this matter.

### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

### **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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00/session = \$ 450.00  
Pre-hearing conference: March 17, 2006 1 session

One (1) Pre-hearing session with the Panel @ \$1,200.00/session = \$ 1,200.00  
Pre-hearing conference: November 30, 2005 1 session

Eight (8) Hearing sessions @ \$1,200.00/session		= \$ 9,600.00
Hearing Dates:	November 28, 2006	2 sessions
	November 29, 2006	2 sessions
	November 30, 2006	2 sessions
	December 1, 2006	2 sessions
<hr/> Total Forum Fees		= \$11,250.00

The Panel has assessed \$5,625.00 of the forum fees to Claimant.  
The Panel has assessed \$5,625.00 of the forum fees to Respondent.

### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

### **Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$ 5,625.00
Total Fees	= \$ 7,425.00
<u>Less payments</u>	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 5,625.00

Respondent is solely liable for:

Member Fees	= \$ 8,550.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$ 5,625.00
Total Fees	= \$15,375.00
<u>Less payments</u>	= \$ 9,750.00
Balance Due NASD Dispute Resolution	= \$ 5,625.00

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

### **ARBITRATION PANEL**

Lester M. Rosenberg	-	Public Arbitrator, Presiding Chairperson
Nelson J. Brous	-	Public Arbitrator
Leonard G. Cohen	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Lester M. Rosenberg  
Public Arbitrator, Presiding Chairperson

December 6, 2006  
Signature Date

/s/  
Nelson J. Brous  
Public Arbitrator

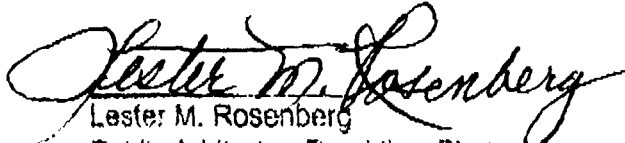
December 6, 2006  
Signature Date

/s/  
Leonard G. Cohen  
Non-Public Arbitrator

December 6, 2006  
Signature Date

December 6, 2006  
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

  
Lester M. Rosenberg  
Public Arbitrator, Presiding Chairperson

12/06/06  
Signature Date

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Nelson J. Brous  
Public Arbitrator

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Non-Public Arbitrator

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12-6-06  
Signature Date

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