

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

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In the Matter of the Arbitration Between:

Grace Purnia, Claimant v. Citigroup Global Markets Inc. f/k/a Salomon Smith Barney Inc. and Nat DiCarlo, Respondents

Case Number: 05-03194

Hearing Site: Los Angeles, California

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Nature of the Dispute: Customer v. Member and Associated Person

**REPRESENTATION OF PARTIES**

For Claimant:

Brett A. Alcala, Esq.  
Alcala Law Firm  
San Mateo, California

For Respondents Citigroup Global Markets Inc.  
f/k/a Salomon Smith Barney Inc.  
("Citigroup Global Markets ") and Nat DiCarlo:

Rebecca J. Nelson, Esq.  
Citigroup Global Markets Inc.  
New York, New York

**CASE INFORMATION**

Statement of Claim filed: June 18, 2005

Amendment to Statement of Claim filed: November 21, 2005

Claimant's Uniform Submission Agreement signed: July 7, 2005

Statement of Answer filed by Respondent Citigroup Global Markets: August 8, 2005

Statement of Answer to Claimant's Amendment to Statement of Claim filed:  
March 20, 2006

Respondent Citigroup Global Markets' Uniform Submission Agreement signed:  
August 8, 2005

Respondent Nat DiCarlo's Uniform Submission Agreement signed: March 14, 2006

### **CASE SUMMARY**

In the Statements of Claim, Claimant alleged negligence, breach of fiduciary duty, unsuitability, failure to supervise, and elder abuse. Claimant's claims involved various securities in a Guided Portfolio Management account, including stock in Wang Laboratories, Amgen Inc., MCI Worldcom, and Ciena Corporation. Claimant's Amendment to the Statement of Claim added Nat DiCarlo as a Respondent.

Respondents denied the allegations of wrongdoing set forth in Claimant's Statements of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested \$25,000.00 in compensatory damages. In the Amendment to the Statement of Claim, Claimant requested \$67,957.96 in compensatory damages, \$218,145.06 in punitive damages, \$4,757.06 in pre-judgment interest, and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's claims in their entirety and costs.

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

On November 21, 2005, Claimant filed a Motion to Amend the Statement of Claim, pursuant to the NASD Code of Arbitration Procedure ("Code") Rule 10328(b). On December 8, 2005, Respondent Citigroup Global Markets filed an Opposition to Claimant's motion. On January 5, 2006, the Arbitrator granted Claimant's Motion to Amend the Statement of Claim.

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, evidence presented at the hearing, and the post-hearing submissions, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents are jointly and severally liable to and shall pay Claimant the sum of \$33,101.72 in compensatory damages.
- 2) Respondents are jointly and severally liable to and shall pay Claimant interest at the rate of 7% per annum on \$33,101.72 from January 31, 2005 to the date that payment of the Award is made in full.
- 3) Respondents are jointly and severally liable to and shall pay Claimant the sum of \$20,482.00 in attorney's fees, pursuant to *Coutee v. Baringon Capital Group LP*, 336 F.3d 1128, 1136 (9<sup>th</sup> 2003).
- 4) Respondents are jointly and severally liable to and shall pay Claimant \$5,000.00 in witness fees.
- 5) Respondents are jointly and severally liable to and shall pay Claimant the sum of \$300.00 in reimbursement for the initial claim filing fee.
- 6) Except as awarded above, the parties shall bear their respective costs, including attorney's fees.
- 7) All other relief requested and 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, the member firm Citigroup Global Markets is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,750.00
<b>Total Member Fees</b>	<b>= \$ 5,200.00</b>

### **Forum Fees and Assessments**

The Panel 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:

1 Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: May 3, 2006	1 session

3 Hearing sessions @ \$1,125.00/session	= \$ 3,375.00
Hearings: August 30, 2006	2 sessions
August 31, 2006	1 session

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<b>Total Forum Fees</b>	<b>= \$ 4,500.00</b>
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The Panel assessed \$4,500.00 of the forum fees jointly and severally to Respondents.

**Fee Summary**

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	<u>= \$( 425.00)</u>
<b>Refund Due Claimant</b>	<b>= \$( 125.00)</b>
  
2. Respondent Citigroup Global Markets is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$(5,200.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>
  
3. Respondents are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 4,500.00
<u>Less payments</u>	<u>= \$( 0.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 4,500.00</b>

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

**ARBITRATION PANEL**

Robert F. Saint-Aubin	-	Public Arbitrator, Presiding Chair
Constance Ellen Boukidis	-	Public Arbitrator
John B. Wells	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Robert F. Saint-Aubin  
Chair, Public Arbitrator

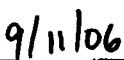
  
Signature Date

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Constance Ellen Boukidis  
Public Arbitrator

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Signature Date

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John B. Wells  
Non-Public Arbitrator

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Signature Date

  
Date of Service


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Constance Ellen Boukidis  
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9/11/06  
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Signature Date

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9/10/06  
Signature Date

9/11/06  
Date of Service