

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

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In the Matter of the Arbitration Between:

Joseph R. Valeriano and Kathleen Valeriano (Claimants) vs. Citigroup Global Markets, Inc. and David Scharf (Respondents)

Case Number: 05-03302

Hearing Site: Albany, New York

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

**REPRESENTATION OF PARTIES**

Claimants Joseph R. Valeriano ("J. Valeriano") and Kathleen Valeriano ("K. Valeriano") hereinafter collectively referred to as "Claimants": Stuart E. Finer, Esq., Finer & Giruzzi-Mosca, Utica, NY.

Respondents Citigroup Global Markets, Inc. ("Citigroup") and David Scharf ("Scharf") hereinafter collectively referred to as "Respondents": William A. Hohauser, Esq. and Lydia R. Zaidman, Esq., Citigroup Global Markets, Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: June 15, 2005.

J. Valeriano signed the Uniform Submission Agreement: June 23, 2005.

K. Valeriano signed the Uniform Submission Agreement: June 23, 2005.

Statement of Answer filed by Respondents on or about: September 30, 2005.

Citigroup signed the Uniform Submission Agreement: September 30, 2005.

Scharf signed the Uniform Submission Agreement: July 15, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty, suitability, fraud, failure to supervise, violations of Federal and State securities laws, violations of NASD Rules and NYSE Rules, and negligence. The causes of action relate to various high risk and speculative technology stocks.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in an amount of not less than \$424,336.00, punitive damages in an amount of not less than \$250,000.00, pre-judgment and post – judgment interest at the rate of 9% per annum, disgorgement and restitution of all earnings, profits, compensations, and benefits received by Respondents as a result of their unlawful acts, attorneys' fees, expert fees, forum fees, and such other and further relief as the Panel may deem just and proper.

Respondents requested dismissal of the Statement of Claim in its entirety and costs.

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

During the hearing Claimants moved to cross-examine a witness regarding the financials of the witness' prior business. After due deliberation, the Panel denied Claimants' Motion to Cross-Examine.

During the hearing Claimants moved to preclude testimony of Respondents' expert witness. After due deliberation, the Panel allowed the testimony of the expert witness but took into consideration Claimants' objections with regard to the weight of the expert's testimony.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are denied 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

### **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
Hearing Process fee	= \$ 4,000.00

### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with single arbitrator @ 450.00 = \$ 450.00  
Pre-hearing conference: March 3, 2006 1 session

One (1) Pre-hearing session with Panel @ \$1,200.00 = \$ 1,200.00  
Pre-hearing conference: November 28, 2005 1 session

Six (6) Hearing sessions with Panel @ \$1,200.00 = \$ 7,200.00  
Hearing dates: June 20, 2006 2 sessions  
June 21, 2006 2 sessions  
June 22, 2006 2 sessions

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Total Forum Fees = \$ 8,850.00

1. The Panel has assessed \$4,425.00 of the forum fees to Claimants, jointly and severally.
2. The Panel has assessed \$4,425.00 of the forum fees to Respondents, jointly and severally.

### **Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 4,425.00
Total Fees	= \$ 4,800.00
Less payments	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 3,225.00

2. Respondents are jointly and severally liable for:

Forum Fees	= \$ 4,425.00
Total Fees	= \$ 4,425.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 4,425.00

3. Respondent Citigroup is solely liable for:

<u>Member Fees</u>	= \$ 7,000.00
<u>Total Fees</u>	= \$ 7,000.00
<u>Less payments</u>	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

**ARBITRATION PANEL**

Stephen T. Rodriguez, Esq.	-	Public Arbitrator, Presiding Chairperson
David J. Pollitzer	-	Public Arbitrator
Birgita K. Siegel, Esq.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

  
Stephen T. Rodriguez, Esq.  
Public Arbitrator, Presiding Chairperson

7-5-06  
Signature Date

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David J. Pollitzer  
Public Arbitrator

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

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Birgita K. Siegel, Esq.  
Non-Public Arbitrator

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Signature Date

July 5, 2006  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

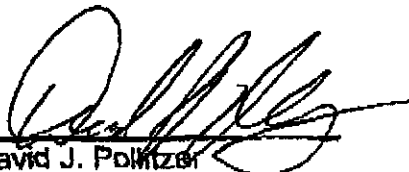
Stephen T. Rodriguez, Esq.	-	Public Arbitrator, Presiding Chairperson
David J. Pollitzer	-	Public Arbitrator
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**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Stephen T. Rodriguez, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

  
David J. Pollitzer  
Public Arbitrator

7/5/06  
Signature Date

Birgita K. Siegel, Esq.  
Non-Public Arbitrator

Signature Date

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