

Award
NASD Dispute Resolution

COPY

In the Matter of the Arbitration Between:

John Steven Bat, Claimant v. Citigroup Global Markets, Inc. and Larry Neil Koenigsberg,
Respondents

Case Number: 05-04053

Hearing Site: Denver, Colorado

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

REPRESENTATION OF PARTIES

For Claimant:

Kirk G. Smith, Esq.
Shepherd, Smith & Edwards, LLP
Houston, Texas

For Respondents:

Gregory S. Tamkin, Esq.
Jennifer N. Good, Esq.
Dorsey & Whitney LLC
Denver, Colorado

CASE INFORMATION

Statement of Claim filed: July 29, 2005

Claimant's Uniform Submission Agreement signed: May 26, 2005

Joint Statement of Answer filed by Respondents: September 27, 2005

Respondent Citigroup Global Markets, Inc.'s Uniform Submission Agreement signed:
September 27, 2005

Respondent Larry Neil Koenigsberg's Uniform Submission Agreement signed:
September 26, 2005

CASE SUMMARY

Claimant alleged defamation, tortious interference with contract, tortious interference with business relations, and tortious interference with prospective business advantage.

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

RELIEF REQUESTED

Claimant requested \$3,000,000.00 in compensatory damages, unspecified punitive damages, interest, and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On June 23, 2006, Respondents moved the Panel to Exclude Claimant's proposed expert witness and his report. Claimant filed an opposition on July 8, 2006. On July 11, 2006, the parties presented their arguments to the Panel. After due deliberation, the Panel denied the motion, on the grounds that exclusion was an inappropriate sanction. The Panel determined, however, that in view of Claimant's violation of the Panel's Initial Scheduling Order, a monetary sanction, to be determined by the Panel at the close of testimony, was appropriate. Following the testimony of Respondents' expert, the parties stipulated that the sum of \$750.00 was an appropriate monetary sanction. The Panel approved the stipulation.

On July 13, 2006, Respondents moved the Panel to Dismiss certain portions of Claimant's Statement of Claim on the grounds that those portions were barred by a statute of limitations. Claimant filed a post-hearing response on July 21, 2006. After due deliberation, the Panel denied the motion on the ground that their decision on the merits mooted such motion.

In the concluding portion of his joint hearing brief, Respondent Larry Neil Koenigsberg requested that the Panel recommend expungement of all reference to the above-captioned arbitration from his registration records maintained by the NASD Central Registration Depository.

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

- 1) Claimant's claims are denied in their entirety.
- 2) Pursuant to stipulation by the parties, Claimant is liable and shall pay Respondents \$750.00 as a sanction for failure to comply with the Panel's Initial Scheduling Order.
- 3) Based on the defamatory nature of the information, the Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Larry Neil Koenigsberg's registration records maintained by the NASD Central Registration Depository ("CRD").
- 4) The parties shall bear their respective costs, including attorney's fees.
- 5) All other relief requested and not expressly granted, including Claimant's request for punitive damages, 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	= \$ 500.00
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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, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$5,000.00</u>
Total Member Fees	= \$8,550.00

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, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$1,200.00
Pre-hearing conference: December 15, 2005 1 session	

Six (6) Hearing sessions @ \$1,200.00/session	= \$7,200.00
Hearings:	
July 11, 2006 2 sessions	
July 12, 2006 2 sessions	
July 13, 2006 2 sessions	

Total Forum Fees	= \$8,400.00
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1. The Panel assessed \$4,200.00 of the forum fees to Claimant John Steven Bat.
2. The Panel assessed \$4,200.00 of the forum fees jointly and severally to Respondents Citigroup Global Markets, Inc. and Larry Neil Koenigsberg.

Fee Summary

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

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$ 4,700.00
Less payments	= \$(1,700.00)
Balance Due NASD Dispute Resolution	= \$ 3,000.00

2. Respondent Citigroup Global Markets, Inc. is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
Less payments	= \$(8,550.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Citigroup Global Markets, Inc. and Larry Neil Koenigsberg are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 4,200.00
Balance Due NASD Dispute Resolution	= \$ 4,200.00

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

Samuel L. McClaren, Esq.
David L. Erickson, Esq.
Helen P. Love

- Public Arbitrator, Presiding Chair
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures


Samuel L. McClaren, Esq.
Chair, Public Arbitrator

July 20, 2006
Signature Date

David L. Erickson, Esq.
Public Arbitrator

Signature Date

Helen P. Love
Non-Public Arbitrator

Signature Date

7/31/06
Date of Service


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David L. Erickson, Esq.	-	Public Arbitrator
Helen P. Love	-	Non-Public Arbitrator

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Chair, Public Arbitrator

Signature Date



David L. Erickson, Esq.
Public Arbitrator

July 27, 2006

Signature Date

Helen P. Love
Non-Public Arbitrator

Signature Date

7/31/06

Date of Service

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Helen P. Love
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7.27.06
Signature Date

7/31/06
Date of Service