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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Sandra M. Foley

Case Number: 05-06219

Name of the 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: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Sandra M. Foley ("Foley"), hereinafter referred to as "Claimant": Tim B. Wright, Esq., Wright, Ponsoldt & Lozeum, L.L.P., Stuart, Florida.

For Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. ("Citigroup"), hereinafter referred to as "Respondent": Tucker H. Byrd, Esq., Greenberg Traurig, P.A., Orlando, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: December 06, 2005.

Claimant signed the Uniform Submission Agreement: November 25, 2005.

Answer and Affirmative Defenses filed by Respondent on or about: February 27, 2006.

Respondent signed the Uniform Submission Agreement: May 09, 2006.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) breach of fiduciary and contractual duties; 2) constructive fraud; 3) failure to supervise and control; 4) negligence & gross negligence; and 5) violation of Federal Securities Laws, NASD Conduct Rules and NYSE Rules. The causes of action relate to Claimant's investments in common stock shares of, including but not limited to, EMC Corp., Cisco Systems and Nokia.

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 the following: 1) compensatory damages of \$607,217.00; 2) costs; 3) punitive damages in an amount according to proof; 4) interest at the legal rate on all sums recovered; 5) attorneys' fees; and 6) such other and further relief the undersigned arbitrators (the "Panel") deemed

just and appropriate.

Respondent requested the following: 1) dismissal of the Claim in its entirety; 2) assessment of all forum costs against Claimant; and 3) such other and further relief as the Panel deemed just and appropriate.

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

The parties agreed that the Award in this matter may be executed in counterpart copies.

### **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. Claimant's claims against Respondent are denied.
2. Respondent shall reimburse to Claimant \$375.00 representing Claimant's filing fee.
3. Any and all other claims for relief not specifically addressed herein, including Claimant's request for attorneys' fees and Claimant's request for punitive damages, 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	= \$ 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(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	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00
Total Member Fees	= \$ 7,000.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

Adjournments fees were not assessed 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.

Injunctive relief fees were not assessed in this matter.

### **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 assessed in this matter.

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

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conferences:	
May 11, 2006	1 session
July 25, 2006	1 session
Four (4) Hearing sessions @ \$1,200.00/session	= \$ 4,800.00
Hearing Dates:	
December 13, 2006	2 sessions
December 14, 2006	2 sessions
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Total Forum Fees	= \$ 7,200.00

The Panel has assessed total forum fees in the amount of \$7,200.00 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 are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred in this matter.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
Total Fees	= \$ 375.00
Less Payments	= \$ 375.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 7,200.00
Total Fees	= \$14,200.00
Less Payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 7,200.00

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

**ARBITRATION PANEL**

<i>Peter A. Portley, Esq.</i>	- <i>Public Arbitrator, Presiding Chairperson</i>
<i>Don R. Harris</i>	- <i>Public Arbitrator</i>
<i>Michele Y. Garelick</i>	- <i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/s/\_\_\_\_\_  
Peter A. Portley, Esq.  
Public Arbitrator, Presiding Chairperson

December 19, 2006  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Don R. Harris  
Public Arbitrator

December 19, 2006  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Michele Y. Garelick  
Non-Public Arbitrator

December 19, 2006  
Signature Date

December 20, 2006  
Date of Service (For NASD Dispute Resolution office use only)

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<i>Don R. Harris</i>	- <i>Public Arbitrator</i>
<i>Michele Y. Garelick</i>	- <i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**



Peter A. Portley, Esq.  
Public Arbitrator, Presiding Chairperson

12-19-06

Signature Date

\_\_\_\_\_  
Don R. Harris  
Public Arbitrator

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

\_\_\_\_\_  
Michele Y. Garelick  
Non-Public Arbitrator

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**ARBITRATION PANEL**

Peter A. Portley, Esq.  
Don R. Harris  
Michele Y. Garelick

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Peter A. Portley, Esq.  
Public Arbitrator, Presiding Chairperson



Don R. Harris  
Public Arbitrator

Signature Date

12/19/08

Signature Date

Michele Y. Garelick  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

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Peter A. Portley, Esq.	- Public Arbitrator, Presiding Chairperson
Don R. Harris	- Public Arbitrator
Michele Y. Garelick	- Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

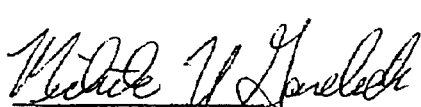
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Peter A. Portley, Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date

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Don R. Harris  
Public Arbitrator

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Signature Date

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Michele Y. Garelick  
Non-Public Arbitrator

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