

## **Award NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

John Stas (Claimant) vs. Lawrence Brockman and Citigroup Global Markets f/k/a Salomon Smith Barney (Respondents)

Case Number: 06-00245

Hearing Site: Cleveland, Ohio

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

### **REPRESENTATION OF PARTIES**

Claimant John Stas hereinafter collectively referred to as "Claimant": James S. Jones, Esq., James S. Jones, L.P.A., Poland, OH.

Respondents Lawrence Brockman ("Brockman") and Citigroup Global Markets f/k/a Salomon Smith Barney ("Citigroup") hereinafter referred to as "Respondents": Joseph L. Calabrese, Esq., Citigroup Global Markets, New York, NY.

### **CASE INFORMATION**

Statement of Claim filed on or about: January 17, 2006.

Claimant signed the Uniform Submission Agreement: January 13, 2006.

Joint Statement of Answer filed by Respondents on or about: March 6, 2006.

Brockman signed the Uniform Submission Agreement: January 31, 2007.

Citigroup signed the Uniform Submission Agreement: January 8, 2007.

### **CASE SUMMARY**

Claimant asserted the following causes of action: suitability, breach of fiduciary duty, intentional misrepresentation, breach of contract, and failure to supervise. The causes of action relate to unspecified securities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of at least \$176,000.00, costs including reasonable attorneys' fees, lost opportunity damages, punitive damages, and any other relief the arbitrators deem just and proper.

Respondents requested the dismissal of the Statement of Claim in its entirety and that costs be awarded to them.

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

Pre-hearing conferences were scheduled in this matter for May 22, 2006, August 31, 2006, and November 3, 2006. Claimant's representative did not appear at the pre-hearing conferences. By letter dated November 13, 2006, Respondents filed a Motion to Dismiss for Failure to Prosecute. Claimant's representative did not submit a response. A pre-hearing conference was scheduled for January 22, 2007 for oral argument on the Motion to Dismiss. Claimant's representative did not appear on the call. After due deliberation, the Panel granted the Motion to Dismiss.

Respondents, the only parties to participate in the pre-hearing conferences in this matter, 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 pre-hearing conference, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed in their entirety with prejudice.
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	= \$ 300.00
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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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Citigroup Global Markets f/k/a Salomon Smith Barney is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00

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

Four (4) Pre-hearing sessions with Panel @ \$1,125.00	= \$4,500.00
Pre-hearing conferences: May 22, 2006	1 session
August 31, 2006	1 session
November 3, 2006	1 session
January 22, 2007	1 session
<hr/> Total Forum Fees	<hr/> = \$4,500.00

1. The Panel has assessed \$4,500.00 of the forum fees to Claimant.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$4,500.00
<hr/> Total Fees	<hr/> = \$4,800.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$3,375.00

2. Respondent Citigroup is solely liable for:


Member Fees	= \$2,450.00
<hr/> Total Fees	<hr/> = \$2,450.00
<u>Less payments</u>	<u>= \$4,900.00</u>
Refund Due to Citigroup	= \$2,450.00

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

**ARBITRATION PANEL**

Ellen Holland Keller, J.D.	-	Public Arbitrator, Presiding Chairperson
Elmer G. Cowan, Esq.	-	Public Arbitrator
Robert G. Conway	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Ellen Holland Keller, J.D.  
Public Arbitrator, Presiding Chairperson

2/5/2007  
Signature Date

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Elmer G. Cowan, Esq.  
Public Arbitrator

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

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Robert G. Conway  
Non-Public Arbitrator

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Signature Date

February 7, 2007

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Date of Service (For NASD Dispute Resolution use only)

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FEB - 5 2007  
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**Public Arbitrator, Presiding Chairperson**

Signature Date

**Elmer G. Cowan, Esq.**  
**Public Arbitrator**

**Signature Date**

  
Robert G. Conway  
Non-Public Arbitrator

2-2-07  
Signature Date

February 7, 2007

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