

**STIPULATED AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Citigroup Global Markets, Inc.  
f/k/a Salomon Smith Barney

and

Case Number: 06-01544  
Hearing Site: Omaha, Nebraska

Names of Respondents

Smith Hayes Financial Services Corp.,  
and Steven R. Sorensen

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**NATURE OF CASE**

Member Firm vs. Member Firm and Associated Person

**REPRESENTATION OF PARTIES**

Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney ("**Smith Barney**" or "**Claimant**") was represented by Tiffany C. Woodie, Esq., Neal, Gerber & Eisenberg, Chicago, Illinois.

Smith Hayes Financial Services Corp. ("**Smith Hayes**") and Steven R. Sorensen ("**Sorensen**") hereinafter collectively referred to as "**Respondents**," were represented by Bruce Wright, Esq., Cline, Williams, Wright, Johnson & Oldfather, Lincoln, Nebraska.

**CASE INFORMATION**

The Statement of Claim was filed on or about March 27, 2006. The Submission Agreement of Claimant was signed on or about April 4, 2006 by Brad C. Twedt.

Respondents, Smith Hayes and Sorensen, did not file an Answer or a Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of compensation plan agreement; breach of confidentiality agreement; misappropriation of trade secrets; conversion; breach of fiduciary duty and duty of loyalty (pre-termination and post-termination conduct); unfair competition and respondeat superior. Claimant alleged that

Respondent Sorensen violated his non-solicitation agreement by the hiring of broker Paige Rodgers and violated the Branch Manager's Agreement with respect to protecting the confidentiality of the their client information.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in an amount to be determined at the hearing, interest, costs and attorneys' fees and other relief the Panel deemed just and proper. Claimant also requested that the Panel grant temporary and permanent injunctive relief as granted by the State's Court Order.

### **OTHER ISSUES CONSIDERED & DECIDED**

Respondents, Smith Hayes and Sorensen, did not file with the NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and are bound by the determination of the arbitration panel on all issues submitted.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1) Claimant's claims, each and all are dismissed with prejudice pursuant to the parties' settlement agreement;
- 2) This matter is before the Panel pursuant to NASD Code of Arbitration Procedure, Rule 10335, the temporary order entered by the United States District Court for the District of Nebraska, which directed the parties to submit the matter to arbitration within fifteen (15) days, and a Settlement Agreement between Citigroup and Sorensen. Based on the Agreement between Citigroup and Sorensen, the Panel finds that: Sorensen shall refrain from any professional contact or involvement with any Smith Barney employee in the Omaha or Lincoln office until September 20, 2007. During this 18-month period, Sorensen shall not, either directly or indirectly, induce or solicit any Smith Barney employees to resign their employment with Smith Barney and/or join Smith Hayes, nor will Sorensen participate in any way with any recruitment, solicitation or hiring of Smith Barney employees by Smith Hayes.

During this 18 month period, Sorensen will create a "Chinese Wall" around Sorensen and Paige Rodgers to screen them from any involvement or contact in the recruitment, solicitation and/or hiring of Smith Barney employees. By agreeing to this order, Sorensen does not admit to any fact or legal issue of any kind concerning the terms of the Smith Barney Branch Manager Agreement;

- 3) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 500.00

#### **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 person at the time of the events giving rise to the dispute. In this matter, the member firms are Smith Hayes Financial Services Corp. and Citigroup Global Markets, Inc.

Member surcharge = \$1,500.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$2,200.00

#### **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.

Citigroup Global Markets, Inc is assessed:

Injunctive relief surcharge = \$2,500.00

**Fee Summary**

Claimant, Citigroup Global Markets, Inc., is liable for:

Initial Filing Fee	= \$ 500.00
Member Fees	= \$4,450.00
Injunctive Fee	= \$2,500.00
<u>Total Fees</u>	<u>= \$7,450.00</u>
<u>Less payments</u>	<u>= \$3,275.00</u>
Balance Due NASD Dispute Resolution	= \$4,175.00

Respondent, Smith Hayes Financial Services Corp., is liable for:

Member Fees	= \$4,450.00
<u>Total Fees</u>	<u>= \$4,450.00</u>
<u>Less payments</u>	<u>= \$2,250.00</u>
Balance Due NASD Dispute Resolution	= \$2,200.00

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

**ARBITRATION PANEL**

Richard M. Duxbury, Esq. - Public Arbitrator, Presiding Chair  
Mark F. Marshall - Public Arbitrator  
Bruce C. Young - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Richard M. Duxbury, Esq.  
Richard M. Duxbury, Esq.  
Public Arbitrator, Presiding Chair

05/15/06  
Signature Date

/s/ Mark F. Marshall  
Mark F. Marshall  
Public Arbitrator

05/10/06  
Signature Date

/s/ Bruce C. Young  
Bruce C. Young  
Non-Public Arbitrator

05/10/06  
Signature Date

05/25/06  
Date of Service (For NASD office use only)

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