

Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Robert D. Hoge

Case Number: 09-05821

Names of the Respondents
Citigroup Global Markets, Inc., formerly
known as Salomon Smith Barney, Inc.
and Christopher M. Payne

Hearing Site: Atlanta, Georgia

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

REPRESENTATION OF PARTIES

For Robert D. Hoge, hereinafter referred to as "Claimant": Robert H. McKnight, Esq.,
Robert H. McKnight, P.C., Fort Collins, Colorado.

For Citigroup Global Markets, Inc., formerly known as Salomon Smith Barney, Inc.
("Citigroup") and Christopher M. Payne ("Payne"), hereinafter collectively referred to as
"Respondents": Adam Kauff, Vice President, Morgan Stanley Smith Barney, New York,
New York.

CASE INFORMATION

Claimant filed the Statement of Claim on or about: October 8, 2009.

Claimant signed his Submission Agreement on: August 3, 2009.

Respondents filed their Statement of Answer on or about: December 23, 2009.

Respondent Citigroup signed its Submission Agreement on: December 23, 2009.

Respondent Payne signed his Submission Agreement on: February 24, 2010.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: (1) misrepresentations; (2) omissions of material information; (3) unsuitability; (4) fraudulent recommendations; (5) violations of contractual and fiduciary duties; (6) violations of rules and regulations of securities exchanges; (7) violation of the "know your customer" National Association of Securities Dealers ("NASD") Conduct Rules Section 2310; (8) violation of NASD Conduct Rules Section 3010 relating to failure to supervise; (9) breach of contract; (10) breach of good faith; and, (11) vicarious liability. The causes of action relate to the purchase of Verso Technologies, Inc.; Curis, Inc.; Etrails Worldwide, Inc.; Nationshealth, Inc.; Plug Power, Inc.; and, Rand Logistics, Inc. penny stocks in Claimant's two retirement accounts.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested that an award be issued against Respondents, jointly and severally, for: (1) compensatory damages in the amount of \$175,000.00; (2) punitive damages in the amount of \$300,000.00; (3) interest at the legal rate from at least August 2002 on the compensatory damages amount of \$175,000.00; (4) costs; (5) attorneys' fees; and, (6) such other and further relief in favor of Claimant as the undersigned arbitrators (the "Panel") may deem proper.

In their Statement of Answer, Respondents requested that Claimant's claims be dismissed.

In their opening and closing statements at the in-person recorded evidentiary hearings, Respondents requested expungement of Respondent Payne's registration records maintained by the Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

At the close of Claimant's case-in-chief, Respondents moved for a directed verdict stating Claimant had failed to prove his case and the allegations in the Statement of Claim. The Claimant made no response. The Panel deliberated in executive session and ruled to deny the motion.

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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims are denied in their entirety.

The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Payne's registration records maintained by the CRD, with the understanding that pursuant to Notice to Members 04-16, Respondent Payne must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code of Arbitration Procedure (the "Code"), the Panel has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The Panel has made the above Rule 2080 finding based on the following reasons:

- 1) The Statement of Claim alleges that Respondent Payne persuaded Claimant to purchase Verso and other low value stocks. Respondent Exhibit #3 contained numerous emails from the Claimant which contained admissions that it was his choice/decision to purchase the subject stocks; did extensive research on his own; consulted with other sources and individuals; and admitted that he knew Respondent Payne would have objected to the purchases he was making, had he known about them. Also, Respondents' Exhibits #18 - #57 showed evidence that Claimant had purchased the same subject stock with other Brokerage firms.
- 2) The Statement of Claim alleges that Respondent Payne made misrepresentations about the subject stocks. The Claimant gave testimony regarding the positive upbeat manner in which Respondent Payne spoke about the Verso stock and his assurance that the stock would rebound. However, there was no other evidence offered to substantiate that there was a "misrepresentation" of the stock by Respondent Payne.
- 3) The Statement of Claim alleges that Respondent Payne's actions operated as a fraud and deceit upon Claimant. There was no testimony nor evidence offered which substantiates the allegations of fraud and/or deceit.
- 4) The Statement of Claim alleges that Respondent Citigroup failed to properly supervise Respondent Payne. A December 29, 2003 Claimant email to Respondent Payne raised objections to a particular of supervision required for a transaction. There was no evidence offered which substantiated the absence of a required supervisory activity.
- 5) The Statement of Claim alleges that Respondents violated their contractual duties to Claimant when they violated the "know your customer" NASD rule. There was no specific evidence introduced which substantiated this allegation.
- 6) The Statement of Claim alleges that Respondents breached their fiduciary duties to Claimant by not developing and following a proper investment plan for Claimant. Respondent Exhibit #4 which contained "Notes Report" or summaries of Respondent Payne's interaction with the Claimant, had entries indicating that attempts made to arrange for the development of an investment plan for the Claimant were rejected by the Claimant.

Any and all relief not specifically addressed herein, including Claimant's requests for punitive damages and attorneys' fees, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution assessed a filing fee* for each claim:

Initial claim filing fee = \$1,425.00

*The filing fee is made up of a non-refundable and a refundable portion.

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, as a party Respondent Citigroup is assessed the following:

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session 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:

One (1) Pre-hearing session with the full Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: February 1, 2010 1 session	

Six (6) Hearing sessions with the full Panel @ \$1,125.00/session	= \$6,750.00
Hearing Dates: October 26, 2010 2 sessions	
October 27, 2010 2 sessions	
October 28, 2010 2 sessions	

Total Hearing Session Fees	= \$7,875.00
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The Panel has assessed the total hearing session fees in the sum of \$7,875.00 to Claimant.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Helen E. Huyler	-	Public Arbitrator, Presiding Chairperson
David E. Morris, Sr.	-	Public Arbitrator
Royce Alan Burns	-	Non-Public Arbitrator

/s/
Helen E. Huyler
Public Arbitrator, Presiding Chairperson

November 8, 2010
Signature Date

/s/

David E. Morris, Sr.
Public Arbitrator

November 8, 2010
Signature Date

/s/

Royce Alan Burns
Non-Public Arbitrator

November 8, 2010
Signature Date

November 8, 2010
Date of Service (For FINRA Dispute Resolution use only)

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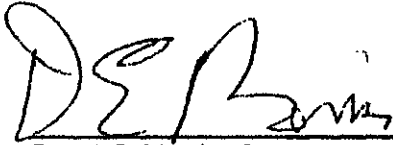
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Helen E. Huyler
Public Arbitrator, Presiding Chairperson

11-08-10
Signature Date



David E. Morris, Sr.
Public Arbitrator

11/8/10
Signature Date

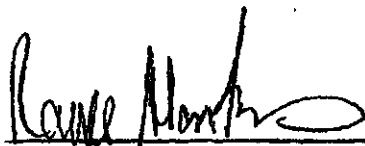
Royce Alan Burns
Non-Public Arbitrator

Signature Date

Date of Service (For FINRA Dispute Resolution use only)

David E. Morris, Sr.
Public Arbitrator

Signature Date



Royce Alan Burns
Non-Public Arbitrator

11/8/2010

Signature Date

Date of Service (For FINRA Dispute Resolution use only)