

**Award**  
**NASD Regulation, Inc.**

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**In the Matter of the Arbitration Between:**

**Michael R. Lissack, (Claimant) vs. Salomon Smith Barney, Inc., (Respondent)**

**Case Number: 98-02557**

**Hearing Site: New York, NY**

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**REPRESENTATION OF PARTIES**

**Claimant Michael R. Lissack, hereinafter referred to as "Claimant": Jeffrey D. Robinson, Esq.,  
Baach Robinson & Lewis, Washington, DC.**

**Respondent Salomon Smith Barney, Inc., hereinafter referred to as "Respondent": Ira G.  
Rosenstein, Esq., Orrick, Herrington, & Sutcliffe, LLP, New York, NY.**

**CASE INFORMATION**

**Statement of Claim filed on or about: July 14, 1998.**

**Amended Statement of Claim filed on or about: December 11, 1998.**

**Claimant signed the Uniform Submission Agreement: July 16, 1998.**

**Statement of Answer filed by Respondent on or about: October 12, 1998.**

**Statement of Answer to the Amended Statement of Claim filed on or about: May 7, 1999.**

**Respondent signed the Uniform Submission Agreement: October 9, 1998.**

**CASE SUMMARY**

**Claimant alleged that Respondent is liable to indemnify him, under the Delaware General Corporation Law, for attorney fees and costs incurred in the defense of actions brought by Respondent.**

**Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant failed to state a claim upon which relief may be granted; Claimant's claims are barred by the doctrine of unclean hands; Claimant's claims are against public policy; and, Claimant's claims are barred by the doctrines of res judicata and/or collateral estoppel.**

### **RELIEF REQUESTED**

Claimant requested indemnification from Respondent for attorneys' fees and expenses in an amount to be determined plus recovery of his attorneys' fees and costs incurred in bringing this action.

Respondent requested an award dismissing the Statement of Claim in its entirety plus costs, including attorneys' fees.

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

During a deliberation session conducted prior to the hearing in this matter, the panel determined, based on the papers, that the claims should be dismissed and no hearing need be conducted.

### **AWARD**

After considering the pleadings, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims be and hereby are denied in their entirety.
2. All other requests for relief are hereby denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 500.00
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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 that employed the associated person at the time of the event giving rise to the dispute. In this matter, Salomon Smith Barney, Inc. is a party.

Member surcharge	= \$1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,500.00

#### **Forum Fees and Assessments**

The Panel assesses forum fees for each hearing session conducted. A hearing 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:

Two (2) Pre-hearing sessions with Panel x \$600.00	= \$1,200.00
Pre-hearing conferences:    October 15, 1999                      1 session	
April 12, 2000                      1 session	
<hr/> Total Forum Fees	<hr/> = \$1,200.00

1. The Panel has assessed \$600.00 of the forum fees against Claimant.
2. The Panel has assessed \$600.00 of the forum fees against Respondent.

#### **Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	<u>= \$ 600.00</u>
Total Fees	= \$1,100.00
<u>Less payments</u>	<u>= \$2,200.00</u>
Refund Due Claimant	= \$1,100.00

2. Respondent be and hereby is solely liable for:

Member Fees	= \$3,100.00
<u>Forum Fees</u>	<u>= \$ 600.00</u>
Total Fees	= \$3,700.00
<u>Less payments</u>	<u>= \$3,100.00</u>
Balance Due NASD Regulation, Inc.	= \$ 600.00

All balances are due and payable to NASD Regulation, Inc.

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**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

\_\_\_\_\_  
Julian F. Santos  
Public Arbitrator, Presiding Chair

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Signature Date

  
\_\_\_\_\_  
Jeanne C. Miller, Esq.  
Public Arbitrator

5/9/00  
\_\_\_\_\_  
Signature Date

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Richard M. Lembach  
Industry Arbitrator


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Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)

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Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
Julian F. Santos  
Public Arbitrator, Presiding Chair

5/6/2000  
Signature Date

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Jeanne C. Miller, Esq.  
Public Arbitrator

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

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Richard M. Lembach  
Industry Arbitrator

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Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)

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Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Julian F. Santos  
Public Arbitrator, Presiding Chair

Signature Date

Jeane C. Miller, Esq.  
Public Arbitrator

Signature Date

Richard M. Lenz  
Industry Arbitrator

April 27, 2000  
Signature Date

Date of Service (For NASD office use only)