

NASD DISPUTE RESOLUTION AWARD

NASD DISPUTE RESOLUTION

CASE: 03-00317

Georgia La Voie, Claimant v. Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. and Jack B. Grubman, Respondents.

ATTORNEYS:

For Claimant, Georgia La Voie, ("Claimant"), appeared James Richard Hooper, Esq., of the firm Hooper & Weiss, L.L.C., Orlando, FL.

For Respondents, Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc., and Jack B. Grubman, appeared Bradford D. Kaufman, Esq., of the firm Greenberg Traurig, P.A., West Palm Beach, FL.

NATURE OF DISPUTE: Customer v. Member and Associated Person

DATE FILED: January 13, 2003

CASE SUMMARY: Claimant alleged that Respondents violated each of the following: Section 17(a) of the Securities Act of 1933, Chapter 517.301 of the Florida Securities and Investor Protection Act, NASD Rule 2210(d)(1), and New York Stock Exchange Rule 202.02. Claimant further alleged that Respondents breached their fiduciary duty, and omitted to state material facts in connection with the offer and sale of WorldCom stock. Claimant additionally alleged that Respondent Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. is liable for the unlawful and negligent acts of its representative, Respondent Jack B. Grubman, under the doctrine of *respondet superior*. Claimant maintained that due to Respondents' actions, her account suffered financial losses.

ARBITRATOR'S REPORT: See attached Exhibit "A".

Claim Data

Claim: \$20,447.81

Punitive: Unspecified

Interest: Unspecified

Attorney Fees: Unspecified

Filing Fees: Unspecified

Other: Unspecified

Award Data

Award: \$20,447.81

Punitive: \$.00

Interest: \$10,075.00; plus interest at the rate of .0001644 per diem from July 31, 2004 until paid

Attorney Fees: \$7,500.00

Filing Fees: \$425.00

Other: \$.00

AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Respondents are jointly and severally liable and shall pay to the Claimant \$20,447.81. 2) Respondents are jointly and severally liable and shall pay to the Claimant \$10,075.00 in interest. Interest is granted at the rates set each year pursuant to Section 55.03 of the Florida Statutes, as follows: ten percent (10%) in 1998; ten percent (10%) in 1999; ten percent (10%) in 2000; eleven percent (11%) in 2001; nine percent (9%) in 2002; six percent (6%) in 2003; and six percent (6%) in 2004 through July 30, 2004. Interest was calculated by the Arbitrator from dates of purchase to July 30, 2004, to total \$10,075.00. Interest is additionally awarded at the rate of .0001644 per diem from July 31, 2004 until paid. 3) Respondents are jointly and severally liable and shall pay to the Claimant \$7,500.00 in attorney's fees, pursuant to Section 517.211 (6) of the Florida Statutes. 4) All requests for punitive damages are denied. 5) All other relief requests are denied. 6) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimant deposited previously. 7) Respondent Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. is liable and shall pay to the Claimant \$425.00 as reimbursement of the filing fees.

OTHER FEES: Pursuant to Rule 10333 of the Code, Respondent Citigroup Global Markets, Inc. f/k/a Salomon Smith Barney, Inc. has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

ARBITRATOR

James J. Kenny, Esq. - Sole Public Arbitrator

AFFIRMATION

I, James J. Kenny, Esq., do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.


James J. Kenny, Esq.

August 16, 2004
Signature Date

August 20, 2004
Date of Service (For NASD-DR office use only)

Exhibit A

ARBITRATOR'S REPORT

Re: NASD Arbitration Number 03-00317
Georgla LaVoie v. Citigroup Global Markets, Inc.,
f/k/a Salomon Smith Barney and Jack B. Grubman

The following discussion briefly explains the basis for my decision.

Liability

1. Liability against both Respondents is based on my finding of violations of Section 517.301 (1)(a) 2 and 3 of The Florida Statutes. The claim was brought within the two and five year time periods provided by Section 95.11(4)(e) of the Florida Statutes.
2. The substantive violation consisted of maintenance of a "1-Buy" rating - Salomon's highest rating - for WorldCom stock while not adequately disclosing the significant involvement of Salomon in a series of transactions over several years between Salomon, the Investment Banking section of Salomon, WorldCom and WorldCom's CEO Bernard Ebbers. These transactions created a remarkable series of conflicts of interest which, as time passed, became more serious and compromising.
3. Salomon did not provide meaningful disclosure of the very serious conflicts of interest. To the contrary, Salomon's research reports on WorldCom included boilerplate statements such as:

"Within the past three years, Salomon Smith Barney, including its parent, subsidiaries and/or affiliates has acted as manager or co-manager of a public offering of the securities of this company, Salomon, usually makes a market in the US traded over the counter securities recommended in this report and may sell to or buy from customers, as principal, securities recommended in this report. The Firm or employees preparing this report may have a position in securities recommended in this report. An employee of the Firm may be a director of a company recommended in this report. The Firm may perform or solicit investment banking or other services from any company recommended in this report." (Quoted, with different emphasis at page 37 of Respondents' Answer)

This series of generic "mays" is simply not sufficient disclosure of a series of specific existing conflicts of interest that were material and were clearly increasing in severity.

Compensatory Damages

1. Section 517.211 (2) and (3) of the Florida Statutes authorizes the remedy of rescission for a violation of Section 517.301 of the Florida Statutes. Claimant's purchases of WorldCom stock totaled \$20,447.81.
2. The statute provides in subsection (4) that a purchaser may recover the purchase price plus interest at the legal rate less the value of the security at the time disposed of and the amount of income received on the security. No evidence was offered as to whether Claimant still owns the WorldCom stock or rights based on ownership or the value of the stock or rights at the present time. Claimant is required to tender or transfer the stock or rights derived from ownership to Respondent Citigroup Global Markets. If Claimant has disposed of the WorldCom stock, Respondent is entitled to the proceeds of the sale as a credit against the award.

Interest

1. Section 517.211 (3) (a) provides that a purchaser is entitled to interest at the legal rate. The legal rate is set by the Comptroller of Florida pursuant to Section 55.03 of the Florida Statutes. The rates set for each applicable year or portion of a year are as follows:

1998 and 1999	10% per year or .0002740 per day
2000	10% per year
2001	11% per year
2002	9% per year
2003 and 2004	6% per year or .0001644 per day

2. The Arbitrator has calculated the interest at the above rates on the amount paid for Claimant's WorldCom stock through July 30, 2004, rounding all amounts down to the next whole dollar amount. The amount of the interest as of July 30, 2004 is \$10,076. Additional interest will accrue after July 30, 2004 until paid at the rate of .0001644 per day.

Attorneys Fees

1. Section 517.211(6) of the Florida Statutes, provides that in any action under this Section, the prevailing party is entitled to reasonable attorneys' fees unless the court (Arbitrator) finds that an award of such fees would be unjust. The Arbitrator does not find that an award of reasonable attorneys' fees in this matter would be unjust.
2. No direct evidence with respect to the amounts that would be reasonable for attorney's fees in this matter was offered by any party except for the award of attorneys' fees in case 03-06464 in another of the "hundreds of identical simplified claims which were filed by the same law firm" (Respondents' Answer, at page 6). The award in that case is included in Respondents Exhibit A. That award reflects that the Claimant sought \$13,118.36 in damages and was awarded nothing, and was awarded \$1,500 in attorneys' fees. That is very little more than a scintilla of evidence on attorneys' fees. The voluminous statement of claim, answer, amended statement of claim, amended answer, briefs, exhibits and other documents submitted by the parties and reviewed by the Arbitrator provide a more substantial basis for determination of the amount of a reasonable attorneys' fee in this matter. Taking into account the fact that, as stated by Respondents, the same law firm represented many other claimants with very similar if not identical claims, the Arbitrator believes that the fee for all the legal work reflected in the papers should be at a lower rate than otherwise would be appropriate.
3. The Arbitrator has considered (a) the factors discussed above in paragraph 2; (b) the fact that this is a relatively small case involving a claim for approximately twenty thousand dollars; (d) the desirability of avoiding further burden and expense for all parties that would result from preparing and presenting further evidence on attorneys' fees; (c) the Arbitrator's more than thirty five (35) years of experience in business litigation in South Florida and familiarity with attorneys' fees; and (e) the result obtained. Based on consideration of these factors, the Arbitrator believes that he has a sufficient basis for determination of a fair and reasonable attorneys's fee for Claimant's counsel, and hereby finds and determines that the amount of \$7,500 would be a fair and reasonable attorney's fee for Claimant's counsel.

NASD Dispute Resolution Filing Fees

The Arbitrator has assessed all NASD Dispute Resolution fees against Respondent Citigroup Global Markets, Inc.

Dated: August 16, 2004


James J. Kenny
Arbitrator