

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant

James S. Bach, individually and as
Trustee for James Bach Rev. Living
Trust UAD 11/4/93

Case Number: 08-01600

Name of the Respondents

Citigroup Global Markets, Inc.
d/b/a Smith Barney

Hearing Site: Miami, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For James S. Bach, individually and as Trustee for James Bach Rev. Living Trust UAD 11/4/93, hereinafter referred to as "Claimant": Steve J. Gard, Esq., Gard Law Firm, Ponte Vedra Beach, Florida.

For Citigroup Global Markets, Inc., d/b/a Smith Barney, hereinafter referred to as "Respondent": Richard C. Szuch, Bressler, Amery & Ross, P.C., Florham Park, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: May 9, 2008.

Claimant signed the Submission Agreement: May 9, 2008.

Statement of Answer filed by Respondent on or about: August 1, 2008.

Respondent signed the Submission Agreement: August 1, 2008.

Motion for Leave to Amend Claim [with Amendment to Arbitration Claim attached as Exhibit] filed by Claimant on or about: February 13, 2009.

Answer to Amended Statement of Claim filed on or about: April 3, 2009.

Motion for an In Limine Order filed by Respondent on or about: July 21, 2009.

Response to Respondent's Motion for an In Limine Order filed by Claimant on or about: July 24, 2009.

CASE SUMMARY

Claimant asserted the following causes of action in the initial Statement of Claim: (1) breach of fiduciary duty; (2) violation of NASD and NYSE rules, breach of contract and negligence; (3) failure of Respondent to supervise; (4) liability of Respondent for the acts of its representatives; and, (5) violation of Fla. Stat. Chapter 517. The causes of action in the initial Statement of Claim relate to Claimant's private placement investment in the MAT Five, LLC investment fund ("Fund #1"). Claimant asserted the following causes of action in the Amendment to Arbitration Claim: (1) promissory estoppel; (2)

breach of contract; (3) negligent misrepresentation; (4) violation of Chapter 517, Fla. Stat. The causes of action in the Amended Arbitration Claim relate to Claimant's private placement investment in the CVC Internal Growth Partnership II investment fund ("Fund #2).

Unless specifically admitted in its Answers to the Statement of Claim and Amended Arbitration Claim, Respondent denied all allegations made by Claimant and asserted various affirmative defenses.

RELIEF REQUESTED

In the initial Statement of Claim, Claimant requested the following relief:

1. statutory rescission of Claimant's [\$750,000.00] investment in Fund #1. In connection with Claimant's request for rescission, Claimant hereby tenders to Respondent all of his investment in Fund #1;
2. disgorgement of all commissions and fees paid to Respondent in connection with Claimant's investment in Fund #1;
3. other compensatory and consequential damages in such amount as the Panel shall determine;
4. all costs, expenses and disbursements in pursuing this arbitration;
5. full reimbursement of all filing fees, forum fees and hearing fees;
6. reasonable attorneys' fees, with such amount to be determined by a court of competent jurisdiction in a confirmation proceeding following an award by the Panel in this matter, pursuant to the Florida Arbitration Code, Fla Stat. Section 682.01 et. seq., and as mandated by the Appellate Court of the State of Florida;
7. a finding that Respondent committed violations of Fla. Stat. Chapter 517;
8. pre-judgment and post-judgment interest until any award is paid; and,
9. such other and further relief, including but not limited to, punitive damages, as the Panel deem just and proper in the circumstances.

In the Amended Arbitration Claim, Claimant requested specific performance or damages from Respondent arising from the causes of action in connection with Fund #2.

At the close of the hearing, Claimant clarified his relief request in connection with Fund #2 to be for specific performance or reformation of the contract regarding Fund #2. Claimant did not specify an amount of damages in connection with Fund #2.

Respondent requested that the Statement of Claim and the Amended Arbitration Claim be denied and dismissed, with prejudice, with the costs the costs associated with this arbitration proceeding assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

The Panel acknowledges that they have each read the pleadings and other materials filed by the parties.

Claimant filed a Motion for Leave to Amend for the purpose of adding additional causes of action to the Statement of Claim relating to Fund #2. Respondent did not file a response to the motion. On or about March 9, 2009, the Panel issued an Order that granted Claimant's Motion for Leave to Amend.

Within 20 days of the evidentiary hearing, Respondent filed a Motion for an In Limine Order to exclude certain evidence from this arbitration proceeding, to which Claimant objected. The Panel directed FINRA Dispute Resolution staff to inform the parties that it would address this motion at the outset of the final evidentiary hearing. Oral argument by the parties on Respondent's Motion for an In Limine Order was heard by the Panel during the evidentiary hearing. Thereafter, the Panel determined to grant, in part, and deny, in part, this 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:

In connection with Fund #1 and based upon equity, Respondent is liable and shall pay to Claimant compensatory damages in the amount of \$250,000.00, plus interest at the rate of 8% per annum, accruing from March 1, 2009 until the date of payment of this Award.

The Panel denies all claims asserted by Claimant in connection with Fund #2.

Each party shall bear their own costs in connection with this arbitration proceeding.

Any and all claims for relief not specifically addressed herein, including Claimant's claim for relief pursuant to Fla. Stat. Chapter 517, Claimant's request for punitive damages and Claimant's request for attorneys' fees, are denied.

FEES

Pursuant to the Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

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

Initial claim filing fee

= \$1,575.00

**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, Respondent is assessed the following:

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

April 15, 16 and 17, 2009, adjournment by Respondent = \$1,200.00

The Panel has assessed the total adjournment fee of \$1,200.00 solely to Respondent.

Hearing Session Fees and Assessments

The Arbitrator (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 a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: March 26, 2009 1 session	
Two (2) Pre-hearing sessions with Panel @ \$1,200.00/session	= \$2,400.00
Pre-hearing conferences: September 29, 2008 1 session	
April 6, 2009 1 session	
Nine (9) Hearing sessions @ \$1,200.00/session	=\$10,800.00
Hearing Dates: July 28, 2009 2 sessions	
July 29, 2009 2 sessions	
July 30, 2009 2 sessions	
July 31, 2009 3 sessions	
Total Hearing Session Fees	= \$13,650.00

The Panel has assessed \$6,825.00 of the hearing session fees to Claimant.
The Panel has assessed \$6,825.00 of the hearing session fees to Respondent.

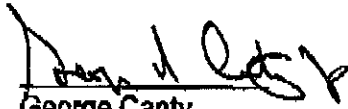
All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Seth Finkel	-	Public Arbitrator, Presiding Chairperson
George Canty	-	Public Arbitrator
Andrew Kahng	-	Non-Public Arbitrator

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Concurring Arbitrators' Signatures


George Canty
Public Arbitrator

August 6, 2009
Signature Date

Andrew Kahng
Non-Public Arbitrator

Signature Date

Concurring in Part, Dissenting in Part Arbitrator's Signature

Chairperson Finkel dissents in connection with the Panel's decision regarding Fund #1, but concurs with the Panel's decision in connection with Fund #2.

Seth Finkel
Public Arbitrator, Presiding Chairperson

Signature Date

Date of Service (For FINRA Dispute Resolution office use only)

Concurring Arbitrators' Signatures

George Centy
Public Arbitrator

Signature Date


Andrew Kahng
Non-Public Arbitrator

8/6/2009
Signature Date

Concurring in Part, Dissenting in Part Arbitrator's Signature

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but concurs with the Panel's decision in connection with Fund #2.

Seth Finkel
Public Arbitrator, Presiding Chairperson

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Public Arbitrator


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Signature Date

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but concurs with the Panel's decision in connection with Fund #2.



Seth Finkel
Public Arbitrator, Presiding Chairperson

8/6/09
Signature Date

Date of Service (For FINRA Dispute Resolution office use only)