

**Award**  
**FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants

Gerald J. Kazma Revocable Trust  
Amzak Capital Management, LLC

Case Number: 09-02697

Names of the Respondents

Citigroup Global Markets, Inc. f/k/a Citicorp  
Investment Services  
Citigroup Alternative Investments, LLC

Hearing Site: Boca Raton, Florida

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Nature of the Dispute: Customer vs. Member and Non-Member.

**REPRESENTATION OF PARTIES**

For Gerald J. Kazma Revocable Trust ("Kazma") and Amzak Capital Management, LLC ("ACM"), hereinafter collectively referred to as "Claimants": Robert Wayne Pearce, Esq., Robert Wayne Pearce, P.A., Boca Raton, Florida.

For Citigroup Global Markets, Inc. f/k/a Citicorp Investment Services ("CGM") and Citigroup Alternative Investments, LLC ("CAI"), hereinafter collectively referred to as "Respondents": Jason M. Fedo, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: May 11, 2009.

Claimant Kazma signed the Submission Agreement: May 29, 2009.

Claimant ACM signed the Submission Agreement: May 29, 2009.

Statement of Answer filed by Respondents on or about: August 5, 2009.

Respondent CGM signed the Submission Agreement: June 18, 2009.

Respondent CAI signed the Submission Agreement: July 19, 2010.

Respondents' Motion for Remedial Action Based on Claimants' Spoilation of Evidence ("Motion for Remedial Action") filed on or about: July 1, 2010.

**CASE SUMMARY**

Claimants asserted the following causes of action: 1) breach of fiduciary duty; 2) common law fraud; 3) negligent misrepresentation; 4) negligent management; 5) negligent supervision; and, 6) breach of contract. The causes of action relate to the purchase in Claimants' accounts of ASTA Three Series 2006-1 and ASTA Five Series 2007-1A.

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

### **RELIEF REQUESTED**

Claimants requested: 1) compensatory damages in excess of \$4,000,000.00; 2) interest at the legal rate; 3) costs of this proceeding; 4) punitive damages; and, 5) such other relief as the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents requested that the Statement of Claim be dismissed, with prejudice, and that the costs associated with this arbitration be assessed against Claimants.

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

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

During the evidentiary hearing, the Panel heard argument on Respondents' Motion for Remedial Action. The Panel denied the motion.

During the evidentiary hearing and at the close of Claimants' case-in-chief, Respondents moved to dismiss the Statement of Claim on the grounds that Claimants failed to prove their case. Claimants opposed the motion. Following the argument of counsel, the Panel denied 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents are liable, jointly and severally, for negligent management and negligent supervision and shall pay to Claimant Kazma compensatory damages in the sum of \$908,648.00, pre-judgment interest specifically denied.

Respondents are liable, jointly and severally, for negligent management and negligent supervision and shall pay to Claimant ACM compensatory damages in the sum of \$908,648.00, pre-judgment interest specifically denied.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages, are denied.

### **FEES**

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

#### **Filing Fees**

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

Initial claim filing fee = \$1,800.00

\*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 and member firm, Respondent CGM is assessed the following:

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

### **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 arbitrators, including a pre-hearing conference with the arbitrators, which 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: June 2, 2010	1 session
One (1) Pre-hearing session with the Panel @ \$1,200.00/session	= \$1,200.00
Pre-hearing conference: September 14, 2009	1 session
Eleven (11) Hearing sessions @ \$1,200.00/session	= \$13,200.00
Hearing Dates:	
July 12, 2010	2 sessions
July 13, 2010	2 sessions
July 14, 2010	2 sessions
July 15, 2010	3 sessions
July 16, 2010	2 sessions
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Total Hearing Session Fees	= \$14,850.00

The Panel has assessed \$7,425.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$7,425.00 of the hearing session fees jointly and severally to Respondents.

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

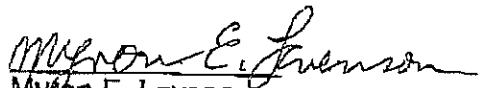
### **ARBITRATION PANEL**

Myron E. Levenson	-	Public Arbitrator, Presiding Chairperson
Joseph Benalt	-	Public Arbitrator
Donald R. McGahan	-	Non-Public Arbitrator



Joseph Benalt - Public Arbitrator  
Donald R. McGahan - Non-Public Arbitrator

Concurring Arbitrators' Signatures

  
Myron E. Levenson  
Public Arbitrator, Presiding Chairperson

8/2/2010  
Signature Date

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Joseph Benalt  
Public Arbitrator

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

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Donald R. McGahan  
Non-Public Arbitrator

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Signature Date


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**FINRA Dispute Resolution**  
Arbitration No. 09-02697  
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