

**Award  
FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 08-04291

The Selan Family Trust dd 8/25/95

Name of the Respondent

Hearing Site: Los Angeles, California

Citigroup Global Markets, Inc.

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Nature of the Dispute: Customer vs. Member

Public Arbitrator Pilot Program/All Public Panel

**REPRESENTATION OF PARTIES**

Claimant, The Selan Family Trust dd 8/25/95, hereinafter referred to as "Claimant":  
Phillip M. Aidikoff, Esq., and Ryan K. Bakhtiari, Esq., Aidikoff, Uhl & Bakhtiari, Beverly  
Hills, California.

Respondent, Citigroup Global Markets, Inc., hereinafter referred to as "Respondent":  
Elizabeth H. Lindh, Esq., and Kelly Moynihan, Esq., Keesal Young & Logan, Long  
Beach, California.

**CASE INFORMATION**

Statement of Claim filed on: November 14, 2008

Claimant signed the Submission Agreement: November 13, 2008

Claimant's First Amended Statement of Claim filed on: January 27, 2009

Statement of Answer filed by Respondent on or about: January 12, 2009

Respondent signed the Submission Agreement: January 12, 2009

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) breach of fiduciary duty; 2) breach of contract; 3) constructive fraud; 4) violation of FINRA, NASD, and NYSE rules; 5) unsuitability; and 6) failure to supervise. The causes of action relate to the purchase of a California tax free municipal bond (MAT Three Series 2006-1).

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

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### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. General and compensatory damages in an amount according to proof but not less than \$1,000,000.00 minus residual value and/or amounts withdrawn;
2. Lost opportunity costs in an amount according to proof;
3. Fees, commissions, or other remuneration paid to Respondent by Claimant;
4. Cost of proceedings;
5. Punitive damages in an amount according to proof;
6. Interest at the legal rate on all sums recovered;
7. Attorneys' fees and costs;
8. Rescission;
9. Consequential damages; and
10. All other relief as the Panel deems just and appropriate.

In the Statement of Answer, Respondent requested that the Statement of Claim be dismissed with prejudice, with the costs associated with the arbitration proceeding assessed against Claimant.

At the close of hearing, Claimant requested:

1. Compensatory damages of \$550,504.96;
2. Lost opportunity costs;
3. Interest;
4. Expert's fees; and
5. Costs.

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

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

This case proceeded under the Public Arbitrator Pilot Program, which allows parties to choose whether to have a non-public arbitrator on the panel.

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:

1. Respondent is liable to and shall pay Claimant compensatory damages in the amount of \$550,504.96.
2. Respondent shall not pay interest to Claimant unless Respondent fails to pay the award within thirty (30) days of the receipt of this Award, pursuant to Code of

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Arbitration Procedure Rule 12904(j), in which case Respondent shall pay to Claimant simple interest on the compensatory damages award of \$550,504.96 from the date of this Award accruing until paid in full, at a rate of 5% per annum.

3. Respondent is liable to and shall pay Claimant the sum of \$375.00 as reimbursement of Claimant's non-refundable portion of filing fees.
4. Any and all relief not specifically addressed herein, including punitive damages, 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 = \$1,575.00

*\*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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Citigroup Global Markets Inc., 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:

November 3-6, & 9, 2009, adjournment by Claimant	= \$1,200.00
February 9-12, 2010, adjournment by Claimant	= \$1,200.00
May 6, 2010, adjournment by Respondent	= \$1,200.00

1. The Panel has assessed \$2,400.00 of the adjournment fee to Claimant.
2. The Panel has assessed \$1,200.00 of the adjournment fee to Respondent.

#### Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

May 6, 2010, adjournment by Respondent	= \$300.00
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1. The Panel has assessed \$300.00 of the Three-Day Cancellation Fees to Respondent.

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**Contested Motion for Issuance of a Subpoena Fees**

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) Decision on a contested motion for the issuance of a subpoena  
 with one arbitrator @ \$200.00 = \$200.00  
 Respondent submitted a request for a subpoena.

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Total Contested Motion for Issuance of Subpoenas Fees = \$200.00

1. The Panel has assessed \$200.00 of the contested motion for issuance of subpoena fees to Respondent.

**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, 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: October 9, 2009 1 session

Two (2) Pre-hearing sessions with Panel @ \$1,200.00/session = \$2,400.00  
 Pre-hearing conferences: March 18, 2009 1 session  
 November 11, 2009 1 session

Nine (9) Hearing sessions @ \$1,200.00/session = \$10,800.00  
 Hearing Dates: May 3, 2010 2 sessions  
 May 4, 2010 2 sessions  
 May 5, 2010 2 sessions  
 May 7, 2010 3 sessions

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Total Hearing Session Fees = \$13,650.00

1. The Panel has assessed \$13,650.00 of the hearing session fees to Respondent.

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

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**ARBITRATION PANEL**

Alan Stamm	-	Public Arbitrator, Presiding Chairperson
Alan M. Rosen	-	Public Arbitrator
Constance Ellen Boukidis	-	Public Arbitrator

**Concurring Arbitrators' Signatures**

Alan Stamm  
 Alan Stamm  
 Public Arbitrator, Presiding Chairperson

05/25/2010  
 Signature Date

\_\_\_\_\_  
 Alan M. Rosen  
 Public Arbitrator

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

\_\_\_\_\_  
 Constance Ellen Boukidis  
 Public Arbitrator

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

May 26, 2010  
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 Date of Service (For FINRA Dispute Resolution use only)

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Public Arbitrator

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Constance Ellen Boukidis  
Public Arbitrator

5/26/10  
Signature Date

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