

**Award  
FINRA Dispute Resolution**

---

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 09-05568

The William F. Runge Revocable Trust  
u/a/d 04/12/06, by its Co-Trustee, Nicole A. Secrest  
Nicole A. Secrest, individually and on  
Behalf of her IRA, The William F. Runge IRA,  
by its Beneficiary, Nicole A. Secrest  
The Trust Created f/b/o Nicole A. Secrest  
u/a Dated 4/12/06, by its Trustee, Valerie A. Secrest

Names of the Respondents

Hearing Site: Washington, D.C.

Citigroup Global Markets, Inc.,  
Morgan Stanley Smith Barney

---

Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For The William F. Runge Revocable Trust u/a/d 04/12/06, by its Co-Trustee, Nicole A. Secrest ("Runge Revocable Trust"), Nicole A. Secrest, individually and on behalf of her IRA ("Secrest"), The William F. Runge IRA by its beneficiary, Nicole A. Secrest ("Runge IRA"), and The Trust Created f/b/o Nicole A. Secrest u/a Dated 4/12/06, by its Trustee, Valerie A. Secrest ("Secrest Trust"), hereinafter collectively referred to as "Claimants": W. Scott Greco, Esq. and Frederick D. Greco, Esq., Greco & Greco, P.C., McLean, Virginia.

For Citigroup Global Markets, Inc. ("Citigroup") and Morgan Stanley Smith Barney ("Morgan Stanley"), hereinafter collectively referred to as "Respondents": Nikolas Komyati, Esq., Bressler, Amery & Ross. P.C., Florham Park, New Jersey.

**CASE INFORMATION**

Statement of Claim filed on or about: September 24, 2009.

Claimants Runge Revocable Trust and Secrest signed the Submission Agreement: September 18, 2009.

Claimants Runge IRA and Secrest Trust signed the Submission Agreement: September 18, 2009.

Statement of Answer to the claims of Claimant Runge Revocable Trust filed by Respondents on or about: December 3, 2009.

Respondent Morgan Stanley did not file an executed Submission Agreement.

Respondent Citigroup did not file a properly executed Submission Agreement.

### **CASE SUMMARY**

Claimants asserted the following causes of action: (1) securities fraud and common law fraud; (2) breach of fiduciary duty; (3) securities recommended and purchased were unsuitable under Washington, D.C. law, federal law, and FINRA Conduct Rules; (4) negligence; (5) breach of contract; (6) control person liability; and, (7) negligent supervision. The causes of action relate to alleged recommendations and trades to invest the proceeds of a trust and IRA which had been at another entity but were transferred to accounts at Citigroup on behalf of Claimants. These recommendations and trades resulted in allegedly unsuitable and unauthorized trading of numerous unspecified securities in Claimants' accounts. The causes of action also relate to alleged recommendations to cash in two life insurance policies which resulted in tax liabilities for Claimants.

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 of approximately \$480,000.00, or a greater amount as determined by the undersigned arbitrators (the "Panel"); (2) interest assessed up to the time of payment of the award; (3) opportunity loss of investment funds damages; (4) punitive damages; (5) costs, FINRA fees and attorney's fees incurred by Claimants in order to prosecute this action; and, (6) such other further relief to which Claimants may be justly entitled as determined by the Panel.

Respondents requested that the Panel dismiss the Statement of Claim in its entirety and that they be awarded their costs.

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

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

Respondents did not file with FINRA Dispute Resolution properly executed Submission Agreements but are required to submit to arbitration pursuant to the Code of Arbitration Procedure (the "Code") and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

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, and shall pay to Claimants compensatory

damages in the sum of \$124,156.00 plus interest at the Washington, D.C. legal statutory rate accruing from January 13, 2009 until the date of the Award.

Any and all claims for relief not specifically addressed herein, including Claimants' requests for punitive damages and attorneys' fees, are 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 = \$ 1,425.00

*\*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 parties, Respondent Citigroup and Respondent Morgan Stanley are assessed the following:

Respondent Citigroup is assessed:

Member surcharge = \$ 1,700.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$ 2,750.00

Respondent Morgan Stanley is assessed:

Member surcharge = \$ 1,700.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$ 2,750.00

#### 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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel @ \$1,125.00/session = \$ 1,125.00  
Pre-hearing conference: March 2, 2010 1 session

Six (6) Hearing sessions @ \$1,125.00/session = \$ 6,750.00  
Hearing Dates: February 1, 2011 2 sessions  
February 2, 2011 2 sessions  
February 3, 2011 2 sessions

---

Total Hearing Session Fees = \$ 7,875.00

The Panel has assessed \$3,937.50 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$3,937.50 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**

Douglas Earl McLaren	-	Public Arbitrator, Presiding Chairperson
William H. Malloy, Jr.	-	Public Arbitrator
Merle D. Rockwell	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

          /s/            
 Douglas Earl McLaren  
 Public Arbitrator, Presiding Chairperson

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

          /s/            
 William H. Malloy, Jr.  
 Public Arbitrator

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

          /s/            
 Merle D. Rockwell  
 Non-Public Arbitrator

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

February 22, 2011  
 Date of Service (For FINRA Dispute Resolution Office use only)

The Panel has assessed \$3,937.50 of the hearing session fees jointly and severally to Claimants.


The Panel has assessed \$3,937.50 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**

Douglas Earl McLaren	-	Public Arbitrator, Presiding Chairperson
William H. Malloy, Jr.	-	Public Arbitrator
Merle D. Rockwell	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Douglas Earl McLaren  
Public Arbitrator, Presiding Chairperson

02/18/2011  
Signature Date

\_\_\_\_\_  
William H. Malloy, Jr.  
Public Arbitrator

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

\_\_\_\_\_  
Merle D. Rockwell  
Non-Public Arbitrator

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

\_\_\_\_\_  
Date of Service (For FINRA Dispute Resolution Office use only)

FINRA Dispute Resolution  
Arbitration No. 09-05568  
Award Page 4 of 4

The Panel has assessed \$3,937.50 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$3,937.50 of the hearing session fees jointly and severally to Respondents.

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

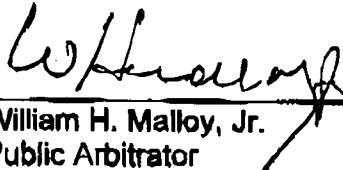
**ARBITRATION PANEL**

Douglas Earl McLaren	-	Public Arbitrator, Presiding Chairperson
William H. Malloy, Jr.	-	Public Arbitrator
Merle D. Rockwell	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Douglas Earl McLaren  
Public Arbitrator, Presiding Chairperson

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

  
\_\_\_\_\_  
William H. Malloy, Jr.  
Public Arbitrator

FEBRUARY 22, 2011  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Merle D. Rockwell  
Non-Public Arbitrator

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

\_\_\_\_\_  
Date of Service (For FINRA Dispute Resolution Office use only)

FINRA Dispute Resolution  
Arbitration No. 09-05588  
Award Page 4 of 4

The Panel has assessed \$3,937.50 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$3,937.50 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**

Douglas Earl McLaren	-	Public Arbitrator, Presiding Chairperson
William H. Malloy, Jr.	-	Public Arbitrator
Merle D. Rockwell	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Douglas Earl McLaren  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
William H. Malloy, Jr.  
Public Arbitrator

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

  
\_\_\_\_\_  
Merle D. Rockwell  
Non-Public Arbitrator

2/22/11  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For FINRA Dispute Resolution Office use only)