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Citigroup Aims to Stop Arbitration From Proceeding

By Lorie Konish, *On Wall Street*
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A new lawsuit filed by Citigroup Global Markets Inc. this week against a set of Saudi family investors with a $383 million claim against the firm will determine whether that case can proceed to arbitration.

Citigroup's suit, dated Oct. 5, is aimed at putting a stop to the arbitration case filed with the Financial Industry Regulatory Authority in August by Abdullah Abbar and Ghazi Abbar, father and son Saudi nationals.

Citigroup claims that the Abbars were not clients of the U.S.-based broker-dealer Citigroup Global Markets Inc., which was named in the arbitration suit the pair filed with the Financial Industry Regulatory Authority in August. Instead, the private equity and hedge fund investments cited in the arbitration—investments the Abbars took part in during the years 2006 and 2007—came from Citigroup entities in the Cayman Islands, Switzerland and United Kingdom, the firm said.

Those entities are not subject to FINRA rules because they are located outside of the United States.

"We are confident this matter will be appropriately resolved when it is reviewed by legal authorities in the jurisdictions that the parties agreed to when they executed their trades," Citigroup Spokeswoman Natalie Marin stated via email on Wednesday. "Because Citigroup Global Market Inc. was not a party to the trades in question and because the claimants were not customers of Citigroup Global Markets Inc., their claims should not be subject to FINRA arbitration."

But the Abbars, who are represented by New York-based law firm Rich & Intelisano LLP, disagree. The next step will probably be an oral argument over whether there should be a temporary restraining order stopping the arbitration, Ross B. Intelisano, a partner with the law firm, said.

"If we win in arguing to the Southern district that the arbitration should go forward, then the arbitration will go forward or Citigroup may appeal up to the Second Circuit," Intelisano said. "If we win that, then we'll have an arbitration."

Intelisano plans to fight Citigroup's claims based on the fact that the New York entity and its employees were the ones that sold the Abbars the investments. "We're arguing that they're attempting to evade their regulatory responsibility as a registered brokerage firm to arbitrate these disputes if the customer chooses to do so," Intelisano said.

Clients who bring cases to FINRA also have the option of resolving disputes through mediation.

Another recent case, including UBS AG versus a West Virginia hospital, also called into question the definition of a customer and if a case can proceed to arbitration, Intelisano said. That case was ultimately sent to arbitration.

If the Abbars' arbitration proceeds, the case will address their initial claims that misconduct by Citigroup Global Markets and its employees "virtually wiped out" the Abbars fortune that totaled about $350 million as of 2005, their August claim said.

The Abbars' fortune came mostly from food products importing, as well as other businesses including oil investments and travel and tourism. Most of those assets were invested in hedge funds, with other investments in real estate trusts, private bond issues, private equity, public equities and bonds, real estate trusts and venture capital.

The family was wooed to work with Citigroup after a financial advisor they were working with at Deutsche Bank joined that firm. By luring the Abbars to Citigroup, that banker became a top private banker at the firm and the Abbars became one of the firm's top ten international clients, according to the Abbars' arbitration filing.

The investments cited in the arbitration dispute include two leveraged option transactions that had a leveraged exposure to multiple hedge funds, as well as another private equity transaction involving a unit trust and related loan.

"The crux of our case is that Citigroup sold a very, very complex product to a wealthy family that was really not appropriate for a non-institutional client," Intelisano said. "Citigroup had previously only sold these complex structures to funds of funds and hedge funds prior to selling it to our clients."

After banks and brokerage firms began selling complex derivative products to individuals and families in addition to the institutions they were originally targeted for around 2006 and 2007, more cases like this could crop up, according to Intelisano.

"I think you will see other cases filed involving retail investors who were improperly sold inappropriate institutional products by banks worldwide," Intelisano said.