

duty that required Salomon to put the interests of its clients ahead of its own business interests. Salomon also owed a contractual duty to invest in accordance with its GPM clients' investment objectives. Beginning on at least January 3, 1998 and continuing to 2002, without the knowledge of plaintiff and other GPM account clients, Salomon managed the GPM accounts by investing funds from these managed accounts in securities of companies in which Salomon sought to obtain and maintain investment banking business. Throughout the class period, Salomon's analysts provided biased and tainted favorable research reports and gave favorable ratings to the stocks of companies in which managed account assets were invested, including numerous telecommunication stocks, as part of an effort to obtain huge investment banking fees. Salomon managed its clients' GPM accounts by investing in the securities of these companies based on recommendations by analysts whose independence had been compromised. Thus, Salomon's biased and self-serving research and recommendations determined the investment choices made in managing GPM accounts. This management strategy was neither prudent nor in the best interest of Salomon's clients; and Salomon knew that its management strategy furthered Salomon's interests rather than the interests of its GPM clients. Salomon never disclosed to plaintiff or the members of the Class that the research and ratings on which its account management was based were not independent but rather were motivated by Salomon's economic interests. Plaintiff maintained a GPM account with Salomon from November 16, 1999, until May 15, 2002, and was injured as a result of Salomon's breaches of fiduciary duties.

2. Over the past several years, Salomon became the most prominent banking firm in the telecommunications sector of the market, which includes among others, equipment manufacturers, long distance service providers, and wireless providers. Since 1996, Salomon

helped raise \$190 billion in debt and equity for more than eighty telecommunications companies.

In return, Salomon received enormous fees relating to underwriting services and financial advice in connection with mergers and acquisitions. During the period 1997-2001, these fees totaled nearly \$1 billion.

3. It now appears, however, that Salomon's success was the product of a complex scheme that has been described in detail by the Attorney General of the State of New York in a complaint filed against the officers of certain of Salomon's investment banking clients. Salomon recently agreed to pay over \$300 million to settle many of the allegations made by the Attorney General. This scheme involved Salomon's unwaveringly providing its telecommunication company clients with favorable analyst reports and ratings -- even when inappropriate -- to bolster the value of the investment banking clients' stocks. This arrangement was never disclosed to Salomon's GPM account clients, who had delegated to Salomon the discretion to manage their funds in reliance on Salomon's claimed integrity and the purported independence of Salomon's research. Salomon, however, in breach of its fiduciary duties, managed these accounts by investing in the securities of the very same companies for whom Salomon was issuing favorable research reports in return for investment banking business, and as to whom Salomon had forfeited its independence.

JURISDICTION AND VENUE

4. Plaintiff's claims arise under Sections 206 and 215 of the Investment Advisers Act of 1940, 15 U.S.C. §§ 80b-6 and 80b-15, and relevant state law, principally the common law of New York. The Court's subject matter jurisdiction is based upon Section 214 of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-14, Sections 1331 and 1332 of the Judicial

Code, 28 U.S.C. §§ 1331, 1332, and this Court's supplemental jurisdiction, 28 U.S.C. § 1367. Plaintiff is a citizen of the District of Columbia and defendant is a citizen of New York. The matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

5. Venue is proper in this district under § 214 of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-14, and 28 U.S.C. § 1391(b). Many of the acts complained of occurred in substantial part in this district and defendant maintains an office and does substantial business in this district.

THE PARTIES

6. Plaintiff W. Caffey Norman is a resident of the District of Columbia. On November 16, 1999, Norman opened a GPM account at Salomon Smith Barney. Norman maintained this account until May 15, 2002 when the account was liquidated at a loss.

7. Defendant Salomon is a Delaware corporation and has its principal place of business in New York. Salomon is the second largest retail brokerage firm in the United States and provides brokerage, investment banking and asset management services to corporations, governments and individuals world-wide.

SUBSTANTIVE ALLEGATIONS

Salomon's Guided Portfolio Management Program

8. Salomon offers an investment program called GPM, which is sponsored by Salomon's Consulting Group and managed by its Portfolio Management Group ("PMG"). Under the Guided Portfolio Management program, Salomon acts as investment adviser with full discretion to manage the account and as custodian of the account. PMG, not the client, makes decisions to purchase, hold, or sell securities, and PMG may invest the proceeds in the account

in securities of any kind. The PMG Guided Portfolio Manager is principally responsible for making investment management decisions for the account based upon the recommendations of the Research Department of Salomon. Under this GPM portfolio management program, clients of Salomon pay an annual fee based on the market value of the account. The fee ranges from approximately 2.5% on the first \$500,000 to 1.4% on assets over \$2 million. Salomon's customers - - including Norman - - exercised no discretion over the account management decisions made on their behalf.

9. The Guided Portfolio Management investment agreement specifically provided that decisions as to account management would be made by PMG based on the recommendation of Salomon's Research Department. The agreement provided:

PMG Guided Portfolio Manager ("GPM") will be primarily responsible for making investment management decisions for the Account within guidelines set forth by PMG and based upon the recommendation of the Research Department of Salomon Smith Barney and, in certain cases, its affiliate, the Robinson-Humphrey Company, LLC.

* * * *

Client hereby grants PMG complete and unlimited discretionary trading authorization with respect to the Account and appoints SSB as agent and attorney-in-fact with respect to the same. Pursuant to such authorization, PMG may, in its sole discretion ... purchase, sell, exchange, convert and otherwise trade the securities and other investments in the Account.

10. Under the GPM agreement, Salomon was obligated and had a duty to each of its clients to act with the utmost good faith, loyalty and candor in managing the GPM accounts in the best interests of its clients and to avoid all conflicts of interest.

11. Initially, Salomon required a minimum account balance of \$100,000.00 for its GPM program. Salomon later lowered the GPM minimum balance to \$20,000.00.

12. Salomon's GPM program became successful. In a press release dated April 6, 1999, Salomon described its GPM program as one of the "fastest-growing segments" of the Salomon Consulting Group. As that press release stated:

GPM permits specially trained Financial Consultants to manage individual portfolios on a discretionary basis using securities approved by Salomon Smith Barney's Fundamental Research Department.

"Given the complexity of the global capital markets, clients need thoughtful investment advice more than ever, and have increasingly turned to our Financial Consultants for customized portfolio management services," said Marshall Kaplan, Director, Portfolio Management Group. Kaplan cited the breadth and depth of Salomon Smith Barney's Research department as one of the key drivers behind GPM's success, which is currently gathering client assets at the rate of more than \$40 million per week.

13. As the GPM program grew, Salomon added more managers to manage GPM accounts on behalf of GPM customers. By the middle of 2000, Salomon had approximately 2,500 GPM managers, each of whom managed GPM accounts for Salomon clients.

**The Research on Which Investment Decisions
Were Based Was Not Independent**

14. Investment banks, including Salomon, have traditionally assured investors that their research departments are separated by a so-called "Chinese Wall" to prevent conflicts of interest. Indeed, Salomon's GPM agreement expressly refers to such a "Chinese Wall." Nonetheless, throughout the class period, Salomon's GPM managers invested the money of clients in companies that were being touted by the Research Department of Salomon, not as a result of objective and independent analysis, but in order to attract investment banking business. Salomon knew that the recommendations of its Research Department were not reliable, impartial or independent and in many cases were false and made in order to obtain and maintain

investment banking business for Salomon. In so acting, Salomon breached its fiduciary duties of loyalty, fair-dealing, good faith, and full disclosure to its GPM account clients.

15. From 1998 through 2001, Salomon Smith Barney published a five-category stock rating system:

1. Buy
2. Outperform
3. Neutral
4. Underperform
5. Sell

16. Under the GPM program, GPM managers were allowed to invest GPM account funds in stocks that had been rated a "1" (Buy) or a "2" (Outperform).

17. In addition, Salomon's research rating system also described a stock's risk - - from low (L), moderate (M) and high (H) risk, to speculative (S) - - and ranked stocks by their expected returns over a 12-18 month period. For example, a "Buy" rating for a stock signaled an expected return of from over 15% to over 30%, depending on the risk.

18. In fact, the rating system was a three-category system under which Salomon rarely used "Sell" or "Underperform" categories for stocks. For example, from 1998 through 2000, Salomon research analysts issued virtually no "Sell" or "Underperform" ratings for the more than 1000 stocks they rated. Thus the vast majority of stocks rated carried an expected return of from 5% to 30%.

19. As has recently been disclosed, Salomon's ratings were a sham and this fact was well-known within Salomon. For example, in December 2000, John Hoffman, head of Salomon's Global Equity Research Management, advised Salomon's then CEO Michael Carpenter in a memorandum entitled "2000 Performance Review," that there was "legitimate

concern about the objectivity of our analysts.” Hoffman also acknowledged the misleading nature of the research ratings at a senior management meeting held at Citigroup’s Armonk Conference Center. Hoffman’s presentation regarding the Salomon Smith Barney “Stock Recommendations as of 1/29/01,” showed that out of a total of 1179 stock ratings, there were zero “Sell” ratings and one “Underperform” rating. In handwritten notes attached to this presentation, Hoffman described these ratings as the “worst” and “ridiculous on face.” He also noted the “rising issue of research integrity.” In February 2001, Jay Mandelbaum, the global head of Salomon’s retail stock-selling division, told Hoffman that Salomon’s “research was basically worthless.” Salomon, however, did not change its rating systems. Out of over 1000 U.S. equity ratings in 2001, Salomon research had no “Sell” ratings and only 15 “Underperform” ratings (1.4%).

20. Salomon’s investment bankers wanted the highest research rating for their banking clients or potential clients to enhance their ability to garner additional banking fees in the future. For example, in January 1998, John Hoffman wrote of the “realization that an analyst is the key element in banking success.” Salomon’s research ratings were driven by the investment banking interests and were, therefore, slanted and biased in order to further these interests at the expense of Salomon’s clients.

21. Salomon’s structure and compensation procedures encouraged investment banking to exercise its influence over analysts and their research ratings. Salomon’s analysts worked with the investment bankers to develop a priority list of potential investment banking clients. Each year from 1999 through 2001, U.S. Research Management requested year-end performance assessments from research analysts. It was “suggested” that the analysts “obtain

collaborative feedback from their investment banking counterpart regarding establishing and modifying a list of coverage priorities.”

22. After the analyst and investment banker jointly developed potential investment banking clients, the analyst would participate, as a key player, in the investment banker’s sales pitch for the investment banking business. Once Salomon obtained the investment banking business (the “mandate”), analysts would participate in road shows and conversations with institutional investors to sell the underwritten stock.

23. In short, once the investment bankers obtained the mandate as a lead underwriter, the research analysts became a proponent of the company and worked to “sell” the deal to institutional buyers of the stock. It was this package of services that was “sold” to corporate clients when they selected Salomon as an underwriter.

24. In January 2000, Salomon held a “Best Practices Seminar,” which was hosted by Kevin McCaffrey, head of U.S. Research Management, and Jeffrey Waters, the Associate Director of U.S. Equity Research. At the seminar, analysts learned how to manipulate their financial models to support underwriting by Salomon’s investment banking division.

25. At the Best Practices Seminar, Waters of Research Management summed up for the analysts the investment banking-analyst relationship as follows:

When you look at the market share gap between us and the three competitors who are trying to close. When I just eyeballed it, it looked like to me there is something like roughly a billion dollars of, maybe not Equity Capital Markets but Investment Banking revenues, on the table for this firm. And that’s a lot of money.

And it’s clear ... that Research is driving a lot of this increasingly. And therefore, as a [research] department our goal has to be, to be a really effective partner in terms of helping drive initiation, execution and

everything else. Because there is a lot of money on the table for this company. And we'll all benefit from it.

26. Salomon's structure for analyst compensation allowed analysts to benefit if Salomon obtained a larger share of the investment banking "money on the table." Beginning in 1999, after the merger of Salomon and Smith Barney, Salomon established a system to reward analysts for investment banking fees Salomon earned in each analyst's sector of coverage. First, scorecards for analyst performance included as a specific factor the amount of investment banking fees Salomon earned in each analyst's sector of coverage and, for recent years, also included the Salomon investment bankers' evaluation of the analysts. The Performance Assessment and Business Plan Memoranda distributed annually by Research Management to research analysts required the analysts to identify in detail their involvement in Investment Banking Transactions over the past year. Each analyst's response to this inquiry, and the amount of investment banking fees reflected on the "scorecard" were significant factors in determining the analyst's compensation. Thus, there was a direct financial incentive for analysts to generate and participate in investment banking business.

27. From the mid-1990's until August 15, 2002 when he resigned, Jack B. Grubman, as a Managing Director and Senior Analyst in Salomon's Equity Research Department, was Salomon's top telecommunications research analyst, and was an important factor in Salomon's success in telecommunications investment banking. His "Buy" ratings and optimistic research on telecommunication companies helped propel the prices of the telecom stocks to stratospheric heights. Although presented to the public as an objective and independent research analyst for these covered companies, Grubman was, in reality, an investment banker, and Grubman's

contribution to investment banking revenues was part of the basis for determining his compensation, which averaged \$20 million per year from 1998 to 2001.

28. While at Salomon, Grubman at various times covered from 20 to 36 stocks. The stock prices of many of those companies dropped dramatically during this time period and 16 of these companies filed for bankruptcy. Grubman never issued any “Sell” ratings and assigned only two “Underperform” ratings for these companies. The ratings Grubman issued were not independent, objective or on the merits, but rather were designed to maximize his compensation through his participation in investment banking.

29. Salomon’s “Scorecards” for Grubman, used in compensation determinations, show investment banking revenues in Grubman’s telecommunications sector as follows:

1998	\$255,735,000
1999	\$359,189,000
2000	\$331,142,000
2001	\$166,486,000

30. Grubman admitted that pressure from the investment banking department influenced his overly positive ratings. In an e-mail to Kevin McCaffrey, head of U.S. Research Management, Grubman wrote:

[M]ost of our banking clients are going to zero and you know I wanted to downgrade them months ago but got huge pushback from banking.

31. Salomon’s retail brokers acknowledged internally that Grubman’s stock ratings were based not on an objective analysis of stock value, but instead were compromised by his interest in generating investment banking revenues. For example, comments made by Salomon’s retail brokers about Grubman during 2000 and 2001 included:

· “Grubman is an absolute disgrace to our firm as an ‘analyst’. Maybe as a ‘banker’ he makes the firm a lot of money, but on the retail side the damage he has caused is a disgrace! I hope many clients sue!”

· “He put me as an adviser to clients in a very difficult position. My clients now question me if a stock we are recommending is an investment banking client. They asked me if we are recommending the stock because we want their banking business. Our blind support of banking (a la WCOM/T) is hurting our retail clients. With recent SEC company communication restrictions, analysis is more important than ever. We can not afford an overpriced cheerleader like Grubman.”

· “Has cost millions of dollars for Salomon Smith Barney clients. I am appalled that he is now in a position to profit from our clients’ losses, through his WCOM investment (sic) banking function. This sends a strong message that retail clients and retail brokers don’t matter.”

· “[T]o represent himself as an analyst is an egregious act by the management of this firm. Clearly many of his Buy and table-pounding Buys were directly related to investment banking \$ for him and his firm ...Shame on him, shame on the banking division, shame on the senior management of this firm.”

· “A perfect example of the unethical connection between research and investment banking.”

· “In my 16 years in the retail brokerage business, NEVER have I received such misguided, horrific recommendations from an analyst Some of his calls may, perhaps, put us in positions where we have to defend ourselves legally. Why does management and our research department continually defend his advice. Your justification of the millions he brings to the firm in underwriting fees only reduces our confidence in our own research department but widens the conflict in interest gap between the brokers and the believability of our research opinions. Perhaps, as brokers, we should subscribe to Morningstar or Valueline where research opinions are not based on influence by underwriting fees or the interest of the firm but on the best interest.”

32. A blatant example of how Salomon abandoned its fiduciary obligations to clients was Grubman’s upgrade of his rating of AT&T in November 1999 from “hold” to the equivalent of a strong “buy”. This upgrade was made after Sanford Weill, the Chairman of Citigroup, Inc. (Salomon’s parent) and other Citigroup executives urged Grubman to re-evaluate AT&T’s stock and amid stories that AT& T was planning a huge stock offering. Shortly after Grubman’s

upgrade, AT&T announced a \$10.6 billion IPO of its wireless business, unexpectedly made Salomon a lead manager of the offering, and paid Salomon a \$44.8 million fee. Grubman's response to the charge that he changed his rating to get business for Salomon, supported by an e-mail he sent to Weill, was that he really did it to please Sandy Weill in return for Weill's help in getting Grubman's children into a prestigious private school. Nonetheless, AT&T now became a favored stock for the investment of client funds.

33. Despite the self-interest and conflicts of interest that tainted Salomon research analysts' reports, Salomon, through its GPM program, continued to invest the funds of its GPM clients in the securities of companies recommended by these analysts because Salomon desired to obtain and maintain their investment banking business. Salomon did not disclose to its clients that its account management decisions were being made based on self-serving and inaccurate research designed to benefit Salomon's investment banking business or that client funds were being managed as part of a package that Salomon held out to investment banking clients.

34. Unknown to Salomon's clients or to the public, Salomon engaged in another scheme designed to attract investment banking business. Corporate executives who had personal "private wealth management" accounts at Salomon were routinely rewarded with stock allocations in each of Salomon's hot IPO offerings. These executives often would sell their allocated shares in short order as the price sky-rocketed in the secondary market, generating huge profits. The executives who received the hot IPO shares were in a position to determine or influence their company's underwriter selection, and, in return for shares, Salomon received highly sought after investment banking and other business from the companies these executives headed. Salomon analysts issued "Buy" recommendations with respect to the stock of these

executives' companies as an integral part of the package of investment banking services marketed to these executives and their companies. And Grubman, as Salomon's top telecommunications analyst, was providing favorable ratings for the stocks of companies as part of an effort to obtain and retain investment banking business. Although no part of this scheme was disclosed to plaintiff or other Salomon clients, Salomon managed funds in its GPM accounts to purchase and hold the securities of these companies.

35. Salomon intentionally concealed from its clients, including plaintiff, the fact that it invested managed accounts in securities of companies based on tainted and compromised research and continued to represent to clients and the public that its research was independent and its management strategy in the best interest of clients. Only recently, and as a result of, among other things, investigations by the Attorney General of the State of New York, the Securities Exchange Commission and NASD as well as articles in the general and financial press, have some of the details of Salomon's conflicts of interest and lack of independence in its ratings of securities and research reports now come to light. Serious allegations of Salomon's conflicts of interest have been made in connection with telecommunications stocks, including Worldcom, Qwest Communications, Metromedia Fiber Network, Inc., McLeod Telecommunications, Focal Communications, GlobalCrossing and Winstar Communications. In each case, Salomon's positive reports and ratings were accompanied by substantial investment banking fees. In each case, Salomon's positive reports and ratings were designed to enhance Salomon's ability to obtain and increase investment banking business, not to reflect independent investment advice in the best interests of Salomon's clients. With respect to these companies, and other companies for whom Salomon sought to provide investment banking services,

Salomon invested its GPM client accounts in securities of these companies to benefit Salomon and in disregard of its fiduciary duties and the best interests of its clients.

36. One of the companies was GlobalCrossing. From the time GlobalCrossing went public in 1998, Grubman was consistently bullish on the company, rating it a 1/S, that is, “Buy” with an expected return of 30% or more. As of December 1999, when the shares were trading at \$50 per share, Salomon had a 1/S rating. In May 2001, Grubman lowered his price target on Global shares from \$70 to \$30 but kept his “Buy” rating and said GlobalCrossing remained a “core holding.” Only in November 2001, when GlobalCrossing shares were trading at \$1.07, did Grubman lower his rating from “Buy” to “Neutral.” Two months later, GlobalCrossing filed for bankruptcy. In the meantime, Salomon supported its analysts’ ratings by buying and holding on to the shares of GlobalCrossing and other telecommunications stocks as their prices dropped.

Plaintiff’s GPM Account

37. Plaintiff opened his GPM account on or about November 16, 1999 and deposited more than \$100,000.00 into his GPM account over the next six weeks for Salomon to manage on his behalf.

38. During the next two and a half years, at least two-thirds of the securities in which Salomon invested funds in plaintiff’s GPM account were securities of companies that paid Salomon advisory or underwriting fees. Many of these companies were in the telecommunications sector. Salomon invested funds from plaintiff’s GPM account in Doubleclick, GlobalCrossing, Qualcomm, Juniper Networks, Check Point Software and MCI Worldcom, among many others. Salomon rated these stocks, and other stocks in plaintiff’s GPM

account, as a “Buy” or an “Outperform,” even as their share prices fell, because Salomon sought to maintain the investment banking business of these companies.

39. Plaintiff paid thousands of dollars to Salomon in fees as consideration for Salomon’s management of his GPM account.

40. As a result of Salomon’s management of his GPM account, plaintiff suffered substantial losses in 2000, 2001 and 2002 - - until plaintiff liquidated his GPM account on May 15, 2002.

CLASS ACTION ALLEGATIONS

41. Plaintiff brings this action on his own behalf and as a class action pursuant to Rule 23(a) and Rule 23(b)(3) of the Federal Rules of Civil Procedure on behalf of a class (the “Class”) consisting of: all persons and entities who had GPM accounts with Salomon during the period beginning January 3, 1998 through and including August 15, 2002, and who were injured thereby. Excluded from the Class are: (i) defendant; (ii) any entity in which the defendant has a controlling interest; (iii) officers and directors of Salomon and its subsidiaries and affiliates; (iv) officers and directors of companies that were Salomon’s investment banking clients; and (v) the legal representatives, heirs, successors or assigns of any such excluded party.

42. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members may only be determined by appropriate discovery, Plaintiff believes that the number of Class members is at least several thousand.

43. Plaintiff’s claims are typical of the claims of the members of the Class. Plaintiff and other members of the Class maintained GPM accounts that were invested in the securities of

companies based on Salomon analyst reports and ratings, and sustained damages as a result of Salomon's wrongful conduct complained of herein.

44. Plaintiff will fairly and adequately protect the interests of the other members of the Class and has retained counsel competent and experienced in class action litigation.

45. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Because the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it virtually impossible for Class members individually to seek redress for the wrongful conduct alleged herein.

46. Common questions of law and fact exist as to all members of the Class and predominate over any questions affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) Whether the Investment Advisers Act of 1940 was violated by Salomon's acts as alleged herein;

(b) Whether Salomon breached its fiduciary duties to plaintiff and the members of the Class in connection with its management of GPM accounts;

(c) Whether Salomon breached its contractual obligations to plaintiff and the members of the Class under the GPM Agreement.

(d) Whether plaintiff and the members of the Class have sustained damages and, if so, the appropriate measure thereof; and

(e) Whether plaintiff and the members of the Class are entitled to restitution.

47. Plaintiff knows of no difficulty that will be encountered in the management of this action that would preclude its maintenance of a class action.

Count I

(For Violations of the Investment Advisers Act of 1940)

48. Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

49. Because of its research activities described above, Salomon functioned as an “Investment Adviser” as that term is defined in the Investment Advisers Act of 1940, 15 U.S.C. § 80b-2.

50. Under Section 206 of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-6, Salomon was prohibited from engaging in fraudulent activities in its work as an Investment Advisor. Specifically, Salomon was prohibited from employing any device, scheme, or artifice to defraud any client or prospective client. Salomon was also prohibited from engaging in any transaction, practice, or course of business which operates as a fraud or a deceit upon any client or prospective client. And Salomon was prohibited from engaging in any act, practice or course of business which is fraudulent, deceptive or manipulative.

51. As described above, Salomon issued research reports and ratings without ever disclosing that Salomon’s research was not independent and was tainted by its many conflicts of interest. Instead, Salomon portrayed its research as the product of disinterested, objective analysis.

52. As discussed above, Salomon set up the GPM program so that the GPM managers would manage client accounts on the basis of recommendations made by Salomon’s research

department. Prospective clients were assured that the program would enable them to benefit from Salomon's research. Under Salomon's form agreement for the GPM, Salomon agreed to manage the GPM account on the basis of its research and the clients (including plaintiff and the other members of the Class) granted Salomon complete and unlimited discretionary trading authority for their accounts.

53. Salomon did not ever disclose to its GPM account holders that Salomon's research was tainted by many conflicts of interest.

54. The above-described conduct is in violation of the Investment Advisers Act of 1940 in that:

(a) Salomon's material non-disclosures about its research meant that the GPM program became a "device, scheme or artifice to defraud" existing and prospective GPM clients (including plaintiff and the other members of the Class);

(b) Salomon's material non-disclosures about its research, and Salomon's management of the GPM accounts based on that tainted research, were "transactions, practices and a course of business" which operated as a deceit or fraud upon existing and prospective GPM clients (including plaintiff and the other members of the Class);

(c) Salomon's material non-disclosures about its research, and Salomon's use of that tainted research as the basis for managing accounts in its GPM program, constituted "acts, practices or a course of business" that was fraudulent, deceptive and manipulative.

55. As a consequence of Salomon's violations of the Investment Advisers Act of 1940, any contract between Salomon and its GPM clients (including plaintiff and the other members of the Class) is void *ab initio* under Section 215 of that Act, 15 U.S.C. § 80b-15, and

Salomon may not receive or retain any fees or commissions under those contracts. During the Class Period, Salomon charged plaintiff and the other members of the Class thousands of dollars each in fees or commissions under the GPM program. Accordingly, Salomon is liable to reimburse plaintiff and the other members of the Class for all such fees and commissions collected.

WHEREFORE, plaintiff requests a finding of liability on Count I in his favor, and against Salomon, and further requests that a judgment be entered:

- (a) Certifying this case as a class action;
- (b) Rescinding any contract for fees or commissions between Salomon and plaintiff and the other members of the Class;
- (c) Ordering an accounting, and full restitution, of all fees and commissions paid by plaintiff and the other members of the Class to Salomon;
- (D) Awarding plaintiff and the other members of the Class interest as allowed by law, costs and fees as allowed by law, and such other relief as the Court deems just and proper.

Count II

(For Breach of Fiduciary Duty)

56. Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

57. As a result of the manner in which Salomon structured and administered the GPM program, Salomon assumed control and responsibility over the funds entrusted to Salomon under that program. Because the GPM program involved Salomon's assuming control over the management and investment of funds in customer accounts, with no discretion or control

remaining with the customers, the GPM program was founded upon trust reposed by the clients in Salomon's integrity and good faith. Hence, in offering the GPM program to plaintiff and the other members of the Class, and by accepting funds for management on behalf of plaintiff and the other members of the Class, Salomon became a fiduciary, with corresponding fiduciary duties of care, loyalty and candor.

58. Salomon breached its fiduciary duties to plaintiff and the other members of the Class in at least the following ways:

(a) Salomon breached its fiduciary duties of care when it managed GPM accounts on the basis of biased and tainted research, as described above. Salomon acted recklessly, and without the proper degree of care, when it made management decisions on behalf of plaintiff and the other members of the Class based on biased and self-serving research and recommendations.

(b) As a fiduciary, Salomon's duties of loyalty precluded it from managing GPM accounts by purchasing for, and holding in, those accounts, securities that were selected to serve Salomon's interests. Salomon breached these duties of loyalty when it managed the GPM accounts belonging to plaintiff (and to the other members of the Class) based on Salomon's financial interest in obtaining investment banking business, as described above.

(c) Salomon breached its fiduciary duties of candor when it failed to disclose to plaintiff (and to the other members of the Class) that Salomon's research was biased and tainted by Salomon's self-dealing, as described above. Salomon did not make full and complete disclosure of its own conflicts of interest and, instead, Salomon knowingly

created the false impression that it was acting on the basis of independent and disinterested research analysis.

59. Salomon's breaches of fiduciary duties were so pervasive as to taint all of Salomon's GPM account management decisions on behalf of plaintiff and the other members of the Class. Indeed, Salomon's breaches of fiduciary duty go to the root of the relationship between Salomon and plaintiff and the other members of the Class, and those breaches defeated the intent and purpose of the agreement under which funds were placed in the GPM program.

60. Plaintiff has been injured as a result of Salomon's mismanagement of his GPM account. The other members of the Class suffered similar injuries.

61. Salomon's breaches of its fiduciary duties were a substantial factor in causing the injuries suffered by plaintiff and by the other members of the Class.

62. As a result of Salomon's breach of its fiduciary duties, plaintiff and the other members of the Class have been damaged in an amount to be determined at trial, but not less than the total fees paid to Salomon and the diminution in value of plaintiff's and the other Class members' GPM accounts that occurred as the result of Salomon's breach of its fiduciary duties.

63. Given the nature of the injuries suffered by plaintiff and the other members of the Class, actual damages may not be a complete or adequate remedy. Accordingly, there may be no adequate legal remedy for Salomon's wrongdoing, and plaintiff and the other members of the Class may be entitled to equitable relief.

64. In committing the breaches of fiduciary duty described above, Salomon acted intentionally, willfully and wantonly. Salomon acted with malice and with reckless indifference to the interests of its clients, who had entrusted property to Salomon in reliance on Salomon's

good faith and integrity. Accordingly, Salomon is liable to plaintiff and the other members of the Class for punitive damages, in an amount to be determined at trial.

WHEREFORE, plaintiff requests a finding of liability on Count II in his favor, and against Salomon, and further requests that a judgment be entered:

- (a) Certifying this case as a class action;
- (b) Awarding plaintiff and the other members of the Class their actual damages;
- (c) Ordering an accounting, and full refund, of all fees paid by plaintiff and the other members of the Class to Salomon;
- (d) Awarding plaintiff and the other members of the Class full restitution for any losses that they have suffered in their GPM accounts;
- (e) Rescinding any contracts that plaintiff and the other members of the Class entered into with Salomon and restoring any fees, commissions or other charges plaintiff and the other members of the Class paid to Salomon;
- (f) Awarding plaintiff and the other members of the Class punitive damages in an amount to be determined at trial; and
- (g) Awarding plaintiff and the other members of the Class interest as allowed by law, costs and fees as allowed by law, and any other relief that the Court deems just and proper.

Count III

(For Breach of Contract)

65. Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

66. The Guided Portfolio Management Investment Agreement (the GPM Agreement) is a legally binding contract between the plaintiff and defendant.

67. On information and belief, the GPM Agreement entered into by the plaintiff and defendant is a standard form agreement, which Salomon required all GPM account holders to execute prior to opening a GPM account. Accordingly, each class member executed the same, or substantially similar, agreement prior to opening a GPM account with Salomon.

68. Prior to executing the GPM Agreement, plaintiff and the other members of the Class were required to, and did, fill out Salomon's Guided Portfolio Management Investment Questionnaire (the "GPM Investment Questionnaire"). The GPM Investment Questionnaire asked would-be GPM account holders, *inter alia*, to specify their investment goals for their GPM account.

69. In plaintiff's GPM Questionnaire, plaintiff specified that his GPM investment goals were "to maximize capital appreciation through investment in equities (Growth Equity)."

70. As set forth in paragraph 1 of the GPM Investment Agreement, Salomon was obligated to invest the plaintiff's proceeds "[i]n accordance with the Client's investment objectives as stated in the Client questionnaire for the Account"

71. The GPM Investment Agreement required plaintiff and the other members of the Class, *inter alia*, "to pay SSB for its services an annual fee as a percent of the market value of the Account. . . ." GPM Agreement ¶ 2.

72. Plaintiff and the other members of the Class paid the annual account fees and fully performed all other duties required of them under the GPM Investment Agreement.

73. Despite full performance by plaintiff and the other members of the Class, Salomon breached its contract to plaintiff and the other members of the Class by failing to make investments on their behalf in accordance with the stated objectives contained in the GPM Investment Questionnaire. In particular:

(a) Salomon breached its contractual obligations under the GPM Investment Agreement when it managed GPM accounts on the basis of biased and tainted research, as described above, and without regard to plaintiff's and Class members' stated investment objectives .

(b) Salomon breached its contractual obligations to plaintiff and the other members of the Class by purchasing for, and holding in, GPM accounts, securities that were selected to serve Salomon's interests, and not the interests and investment objectives of plaintiff and the other members of the Class.

(c) Salomon breached its contractual obligations to plaintiff and the other members of the Class when it managed the GPM accounts belonging to plaintiff (and to the other members of the Class) based on Salomon's financial interest in obtaining investment banking business, as described above.

(d) Salomon breached its contractual duty to plaintiff and the other members of the Class to perform its contractual obligations in good faith when it failed to disclose to plaintiff (and to the other members of the Class) that Salomon's research was biased and tainted by Salomon's self-dealing, as described above. Salomon did not make full and complete disclosure of its own conflicts of interest and, instead, Salomon knowingly

created the false impression that it was acting on the basis of independent and disinterested research analysis.

74. As a result of Salomon's breach of its contractual duties, plaintiff and the other members of the Class have been damaged in an amount to be determined at trial, but, in any event, not less than the total fees paid to Salomon and the diminution in value of plaintiff's and the other Class members' GPM accounts that occurred as the result of Salomon's breach of its contractual obligations.

WHEREFORE, plaintiff requests a finding of liability on Count III in his favor, and against Salomon, and further requests that a judgment be entered:

- (a) Certifying this case as a class action;
- (b) Awarding plaintiff and the other members of the Class their actual damages;
- (c) Ordering an accounting, and full refund, of all fees paid by plaintiff and the other members of the Class to Salomon;
- (d) Awarding plaintiff and the other members of the Class full restitution for any losses that they have suffered in their GPM accounts;
- (e) Rescinding any contracts that plaintiff and the other members of the Class entered into with Salomon and restoring any fees, commissions or other charges plaintiff and the other members of the Class paid to Salomon;
- (f) Awarding plaintiff and the other members of the Class punitive damages in an amount to be determined at trial; and
- (g) Awarding plaintiff and the other members of the Class interest as allowed by law, costs and fees as allowed by law, and any other relief that the Court deems just and proper.

Plaintiff demands a jury trial for all claims that may be tried to a jury.

Respectfully submitted,

January 2, 2003

Thomas Earl Patton (DC Bar No. 009761)
Steven C. Tabackman (DC Bar No. 934539)
Brian C. Quinn (DC Bar No. 458578)
TIGHE PATTON ARMSTRONG TEASDALE, PLLC
1747 Pennsylvania Ave., N.W., Suite 300
Washington, D.C. 20006
Telephone: (202) 454-2800
Facsimile: (202) 454-2805

Steven J. Toll (DC Bar No. 225623)
Elizabeth S. Finberg (DC Bar No. 468555)
COHEN, MILSTEIN, HAUSFELD & TOLL, P.L.L.C.
West Tower, Suite 500
1100 New York Avenue, N.W.
Washington, D.C. 20005-3964
Telephone: (202) 408-4600
Facsimile: (202) 408-4699

Terry Rose Saunders (DC Bar No. 185223/Inactive)
Thomas A. Doyle (not admitted in this Court)
SAUNDERS & DOYLE
33 North Dearborn Street, Suite 1302
Chicago, Illinois 60602
Telephone: (312) 551-0051
Facsimile: (312) 551-4467

COUNSEL FOR PLAINTIFF
W. CAFFEY NORMAN, III