Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant [redacted]

Case Number: [redacted]

vs.

Respondent
Citigroup Global Markets, Inc.

Hearing Site: Boston, Massachusetts

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [redacted] Dochtor D. Kennedy, MBA, J.D., Advisors Law, LLC, Broomfield, Colorado.

For Respondent Citigroup Global Markets, Inc.: David I. Hantman, Esq. and Consuela Mejer, Esq., Bressler, Amery & Ross, P.C., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: September 29, 2016.
Amended Statement of Claim filed on or about: June 27, 2017.
[redacted] signed the Submission Agreement: September 29, 2016.

Statement of Answer filed by Respondents on or about: December 22, 2016.
Citigroup Global Markets, Inc. signed the Submission Agreement: January 4, 2017.

CASE SUMMARY

Claimant asserted the following causes of action: expungement.

Respondent did not oppose Claimant's expungement request.

RELIEF REQUESTED

In the Statement of Claim and Amended Statement of Claim, Claimant requested expungement of occurrence numbers [redacted], [redacted], [redacted], [redacted], [redacted] and [redacted] from his CRD records; compensatory damages in the amount of $1.00; and any and all relief that the Arbitrator deems just and proper.

In the Statement of Answer Respondent did not oppose Claimant's expungement request, but objected to Claimant's request for compensatory damages. Respondent also requested that no forum fees shall be assessed against Respondent, and all other fees associated with this matter shall be assessed solely against Clamant.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges that he has read the pleadings and other materials filed by the parties.

On July 19, 2017, Claimant notified the customers related to occurrence # [redacted], of his expungement request and of their right to participate and testify at the expungement hearing and he provided the customers with a copy of the Statement of Claim.

On July 28, 2017, Claimant notified the customers related to occurrence #'s [redacted], [redacted], [redacted], [redacted] and [redacted] of his expungement request and of their right to participate and testify at the expungement hearing and he provided the customers with a copy of the Statement of Claim.

The Arbitrator conducted a recorded telephonic hearing on September 6, 2017 so the parties could present oral argument and evidence on Claimant's request for expungement.

At the hearing, Claimant withdrew his request for compensatory damages.

The customers did not participate in the expungement hearing and did not contest the request for expungement.

The Arbitrator reviewed the BrokerCheck® Report for [redacted] and the settlement documents related to occurrence # [redacted], considered the amount of payments made to the customers, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the customers not opposing the request for expungement. The Arbitrator also noted that [redacted] did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim and Amended Statement of Claim, Respondent's Statement of Answer, the Settlement Agreement related to occurrence [redacted] and the evidence and testimony presented at the telephonic expungement hearing.

The Arbitrator noted that [redacted] did not previously file a claim requesting expungement of the same disclosure in the CRD.

The parties present at the hearing 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 telephonic expungement hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Arbitrator recommends the expungement of all references to occurrence [redacted] from registration records maintained by the Central Registration Depository ("CRD"), for [redacted] (CRD# [redacted]), with the understanding that, pursuant to Notice to Members 04-16, [redacted] must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

   Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

   Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

   The claim, allegation, or information is false.

   The Arbitrator has made the above Rule 2080 finding based on the following reasons:

   The challenged disclosure is an allegation by the customer of unsuitability during years 1999-2002 with damages alleged of $52,000. After investigation, the claim was denied by the firm and no arbitration or court action was taken by the customer. The customer was an equity investor since 1965, and Claimant and his partner upon first review of asset allocation recommended a re- distribution to 60% + fixed income and 28% growth over time using a Guided Portfolio Management (GPM) software program in a discretionary, fee-based account. Claimant had reason to believe this strategy was suitable based on the customer's age, other investments, financial situation and needs. However, in the fall of 1999, the customer was resistant to reducing equity exposure due to robust nature of market. The allegation that customer's claimed losses were unsuitable is false as there is no evidence that the claimed losses resulted from unsuitable recommendations and the challenged disclosure does not provide any accurate or meaningful information to potential investors.

2. The Arbitrator recommends the expungement of all references to occurrence #[redacted] from registration records maintained by the Central Registration Depository ("CRD"), for [redacted] (CRD# [redacted]), with the understanding that, pursuant to Notice to Members 04-16, [redacted] must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 finding based on the following reasons:

The challenged disclosure is an allegation by a customer of unsuitability and churning during years 2000-2001 with unspecified damages but believed to amount to $40,000. After investigation, the claim was denied by the firm and no arbitration or court action was taken by the customer. The customer was an active equity investor with many years of trading experience. In March 1999, the customer scheduled a review appointment with Claimant and his partner. This resulted in a transfer of portfolio to Claimant and his partner. They recommended using the discretionary, fee based GPM program to manage the equity assets and small fixed income allocation. The dot-com market crashed and soon the customer was talking to Claimant 2-3 times a week, Claimant and his partner believed the market had over-corrected and consistently advised the customer to keep his investments until the market stabilized. In mid –September 2001 just after the terror attacks on the World Trade Center, the customer was in such a distressed state that Claimant and his partner yielded to his instructions to sell. The allegation that the customer's investments were unsuitable is false as there is no evidence that the claimed losses were the result of unsuitable recommendations. There is no evidence of churning as the managed account was fee-based and there is no evidence of gain for the brokers or firms from any transactions. The disclosure does not provide any accurate or meaningful information to potential investors.

3. The Arbitrator recommends the expungement of all references to occurrence [redacted] from registration records maintained by the Central Registration Depository ("CRD"), for [redacted] (CRD# [redacted]), with the understanding that, pursuant to Notice to Members 04-16, [redacted] must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

   Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

   Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

   The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 finding based on the following reasons:

The challenged disclosure is an allegation by a customer that Claimant misrepresented an annuity purchased in 1999 with damages unspecified. After investigation, the claim was denied by the firm and no arbitration or court action was taken by the customer. The customer came to Claimant through a telephone solicitation by Claimant. At the first meeting, the customer informed Claimant that he had had some bad luck in real estate investments and was short on assets needed to generate income for retirement. The customer was aware of how well the equity market was doing and wanted to own equity funds within his existing annuity. Because this was not an option within the customer's existing fixed rate annuity, Claimant recommended an exchange of the fixed annuity with a Golden Life Premium Plus variable annuity with a goal of outperforming his current fixed annuity with the added advantage of protecting principal for his beneficiaries through a life insurance policy. The customer signed detailed acknowledgements explaining the differences in fees and charges. The new annuity had a 4-year window to leave the annuity and the customer did not avail himself of the option before filing a complaint in March 2003 that the terms of annuity was misrepresented. There is evidence that the terms were disclosed and acknowledged and no evidence that Claimant misrepresented the terms of the annuity. The allegation of misrepresentation is false and does not provide any accurate or meaningful information to potential investors.

4. The Arbitrator recommends the expungement of all references to occurrence #[redacted] from registration records maintained by the Central Registration Depository ("CRD"), for [redacted] (CRD# [redacted]), with the understanding that, pursuant to Notice to Members 04-16, [redacted] must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

   Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

   Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

   The claim, allegation, or information is false.

   The Arbitrator has made the above Rule 2080 finding based on the following reasons:

   The challenged disclosure is an allegation by a customer of unsuitability and bad investment advice in July 2002 with alleged mutual fund losses of $30,780.61. After investigation, the claim was denied by the firm and no arbitration or court action was taken by the customer. The customer transferred his portfolio to the Claimant and his partner in the Spring of 2000. The customer asserted in the complaint letter that the portfolio only contained preferred stock; however, according to correspondence with the customer in response to his complaint and as attested to by Claimant, the

transferred portfolio actually also included common stock, i.e., shares of Vodafon, Lucent and Worldcom that the customer wanted to continue to hold. The portfolio was transferred to a nondiscretionary account and the customer was required to approve each transaction. He identified his risk tolerance as moderate with room for speculation. Among the transactions was $30,000 in All Cap Growth Class L stock and $39,000 in a Smith Barney high yield income fund. At the time of the customer complaint, over two years after purchase, the customer had a loss of over $5,000 from the initial sale of securities following the portfolio transfer, had lost $16,000 in value in the All Cap fund and $11,000 in the high yield income fund. However, this loss in value did not take into account over $24,000 in interest and dividends received during the same time. The customer sought restitution for the claimed losses, requested that his portfolio be sold and that the brokerage fee be waived. In light of the customer's risk tolerance and desire for higher returns, that the customer's portfolio included common stocks, the control the customer maintained over the nondiscretionary account and the failure to lodge a complaint after continuing in the questioned funds for over 2 years, there is no evidence of unsuitability and bad investment advice. The allegations are false and do not provide any accurate or meaningful information to potential investors.

5. The Arbitrator recommends the expungement of all references to occurrence #[redacted] from registration records maintained by the Central Registration Depository ("CRD"), for [redacted] (CRD# [redacted], with the understanding that, pursuant to Notice to Members 04-16, [redacted] must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

   Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

   Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

   The claim, allegation, or information is false.

   The Arbitrator has made the above Rule 2080 finding based on the following reasons:

   The challenged disclosure is unsuitability, negligence, breach of fiduciary duty, misrepresentation, fraud, breach of contract, and violation of 1934 Securities and Exchange Act and Rule 10b-5 from January 2000 through June 2004. After investigation, the claim was initially denied by the firm. The allegations were made by two (2) customers whose accounts totaling $1.3 million were reassigned to Claimant and his partner in February 2000 because the customers expressed strong interest in allocating some funds to the technology and telecommunications sectors of the market. Because the customers were experienced investors and identified their risk tolerance as aggressive, the Claimant and his partner recommended a discretionary fee-based account to eliminate commission. The customers agreed and reallocated 15% of their portfolio to the technology and communications sectors.

The remainder of the portfolio remained under the direct control of the customers. In March 2000 the stock market and in particular the tech and communications sector began a steep decline and in June 2000 the customers moved their accounts to another broker dealer. Nearly 4 years later, the customers filed a Statement of Claim. The customers' Statement of Claim contained several unsupported factual allegations including a suggestion that they gave Claimant and his partner total control over their finances and that their investment objectives were increased income because they did not receive enough income from their pensions and investments. The customers sought $200,000 in damages. At hearing, Claimant provided a copy of release and settlement signed by the firm (but not by the customers of Claimant's representative) indicating that the customers settled for $9,999, the same amount reported on the disclosure form. The settlement terms on the document provided do not indicate that the settlement was conditioned on the customer not opposing expungement. The customers were served notice of the hearing but did not enter an appearance. Claimant denied contributing to the settlement or in actively participating in the negotiations, which he asserted were to avoid the full costs of litigation. The record strongly indicates that the claims contained in the disclosure are false and that the customers' losses were attributable to an unanticipated severe market downturn. Keeping this disclosure on the Claimant's record does not provide any accurate or meaningful information to potential investors.

6. The Arbitrator recommends the expungement of all references to occurrence #[redacted] from registration records maintained by the Central Registration Depository ("CRD"), for [redacted] (CRD# [redacted]), with the understanding that, pursuant to Notice to Members 04-16, [redacted] must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

   Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

   Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

   The claim, allegation, or information is false.

   The Arbitrator has made the above Rule 2080 finding based on the following reasons:

   The challenged disclosure is an allegation by a customer that unspecified investments were unsuitable. After investigation, the claim was denied by the firm and no arbitration or court action was taken by the customer. The customer was a high level Merck executive with many years of investment experience, who was 89 years of age. This account was reassigned to Claimant. According to Claimant, the customer exercised a high degree control over his $3-4 million portfolio. In November 2001, the customer asked claimant for some stock ideas and based on firm research and in light of the customer's long experience as an investor, he

provided the customer with a list of recommended stocks to consider including AOL, Golden West Financial Corporation and Walt Disney company. The customer ultimately invested in two companies on the list including an unspecified amount of Worldcom stock and 200 shares of AOL at just over $12,000. In his complaint, the customer expressed concern over the list of recommended stocks provided to him and the losses he suffered, but also complimented Claimant for his preferred stock recommendations. The record contains no support for the allegation set out in the disclosure and is inconsistent with the evidence proffered at hearing that the customer was a very experienced investor who exercised a high degree of control over his investments and was seeking to take some risk with a small portion of his portfolio. The unsuitability allegation is false and keeping this disclosure on the Claimant's record does not provide any accurate or meaningful information to potential investors.

7. Any and all claims for relief not specifically addressed herein are denied.

FEES

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

Filing Fees
FINRA Office of Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing Fee	=$ 50.00

**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 events giving rise to the dispute. Accordingly, as a party, Citigroup Global Markets, Inc. is assessed the following:

Member Surcharge	=$ 150.00

Discovery-Related Motion Fee
Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) arbitrator @ $200.00/decision	=$ 200.00
Claimant submitted one (1) discovery-related motion	
Total Discovery-Related Motion Fees	=$ 200.00

The Arbitrator has assessed the $200.00 discovery-related motion fees to Claimant.

Hearing Session Fees and Assessments

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single arbitrator @ $50.00/session			=$ 50.00
Pre-hearing conference:	May 12, 2017	1 session	
One (1) hearing session on expungement request @ $50.00/session			=$ 50.00
Hearing Date:	September 6, 2017	1 session	
Total Hearing Session Fees			=$ 100.00

The Arbitrator has assessed the $100.00 of the hearing session fees to Claimant.

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

ARBITRATOR

John Francis Markuns - Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

Arbitrator's Signature

John F. Markuns

September 24, 2017

John Francis Markuns jm
Sole Public Arbitrator

Signature Date

September 28, 2017

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