

**Award**  
**FINRA Office of Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Citigroup Global Markets, Inc.

Hearing Site: Buffalo, New York

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████: Dochter Kennedy, MBA, JD, Armin Sarabi and Harris Freedman, AdvisorLaw, LLC, Broomfield, Colorado.

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

**CASE INFORMATION**

Statement of Claim filed on or about: August 31, 2017.

████████████████████ signed the Submission Agreement: August 31, 2017.

Statement of Answer filed by Respondent on or about: October 23, 2017.

Citigroup Global Markets, Inc. signed the Submission Agreement: September 28, 2017.

**CASE SUMMARY**

Claimant asserted the following causes of action: expungement.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested the following:

1. expungement of occurrence number of ██████████ from his CRD records pursuant to FINRA Rule 2080(b)(1)(A) as the claims, allegations, or information factually impossible or clearly erroneous;
2. expungement of occurrence number of ██████████ from his CRD records pursuant to FINRA Rule 2080(b)(1)(C) as the claims, allegations, or information is false;
3. compensatory damages in the amount of \$1.00; and
4. any and all other relief that the arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not oppose Claimant's request for expungement, but requested that Claimant's request for one dollar in compensatory damages be denied and that all forum fees be assessed solely against Claimant.

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

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

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

The Arbitrator conducted a recorded telephonic hearing on May 22, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

The customer did not participate in the expungement hearing and did not contest the request for expungement, as the customer is now deceased.

The Arbitrator reviewed the BrokerCheck® Report for [REDACTED] and the settlement documents, considered the amount of payments made to the customer in the underlying complaint, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the customer 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, Respondent's Statement of Answer, Claimant's BrokerCheck® Report, the Settlement Agreement related to occurrence number [REDACTED] and the evidence and testimony presented at the 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 number [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 factually impossible or clearly erroneous.

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

There was no evidence in the customer's history to suggest unauthorized trading. Mr. [REDACTED] testified that every transaction was pre-authorized by the customer. The customer selected the investments and declined Mr. [REDACTED] recommendations for more constructive options so there was no unsuitability or breach of duty or any misrepresentation regarding investments the customer made.

2. 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
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*\*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(s) giving rise to the dispute. Accordingly, as a party, Citigroup Global Markets, Inc. is assessed the following:

Member Surcharge	= \$ 150.00
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**ARBITRATOR**

Tracy L. Allen

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

**Arbitrator's Signature**



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Tracy L. Allen  
Sole Public Arbitrator



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

**JUNE 26, 2018**

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