

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

Case Number: [REDACTED]

vs.

Respondent

Hearing Site: New York, New York

Citicorp Investment Services

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [REDACTED] Michelle Atlas, Esq. and Docthor Kennedy, MBA, J.D., AdvisorLaw LLC, Broomfield, Colorado.

For Respondent Citicorp Investment Services: David I. Hantman, Esq., Bressler, Amery & Ross, P.C., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: January 24, 2018.

[REDACTED] signed the Submission Agreement: January 24, 2018.

Statement of Answer filed by Respondent on or about: March 16, 2018.

Citicorp Investment Services signed the Submission Agreement: February 28, 2018.

CASE SUMMARY

Claimant asserted the following cause of action: expungement.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of occurrence number [REDACTED] from his CRD records; compensatory damages in the amount of \$1.00; and 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. Respondent requested that the Arbitrator deny Claimant's request for compensatory damages and assess all forum fees against Claimant.

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 October 15, 2018 so the parties could present oral argument and evidence on Claimant [REDACTED] request for expungement.

Claimant was unable to locate the customer in occurrence number [REDACTED]. Claimant's counsel previously indicated that information about the customer had been sought from Respondent Citicorp Investment Services, but that none was available. Counsel had also described the database searches that are done to attempt to find information that would help to locate the customer. Claimant's counsel submitted an Affidavit affirming that those efforts had been unavailing. Based on Claimant's efforts to locate the underlying customer, the Arbitrator determined that the expungement hearing would proceed.

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

The Arbitrator reviewed the BrokerCheck® Report for [REDACTED]

The Arbitrator noted that Claimant [REDACTED] did not previously file a claim requesting expungement of occurrence number [REDACTED]

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, party submissions, Claimant's BrokerCheck® Report, and Claimant's testimony.

AWARD

After considering the pleadings, the testimony and evidence presented at the 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 Claimant [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, Claimant [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:

Because of the passage of time, the precise details are not available. However, the credible evidence indicates that the customer's claim was factually impossible or clearly erroneous, that is, that any losses suffered by the customer in question were the result of market conditions rather than the alleged unsuitability of the investment. The credible testimony of Claimant [REDACTED] indicates the following: It was Claimant's practice to meet face to face with new customers (who came from referrals from Respondent Citicorp or Citicorp's high balance list) to determine the customer's profile and time horizon. Claimant was only able to recommend mutual funds from Citicorp's approved list. It was Claimant's practice to recommend broad based equity mutual funds for customers with at least a 4 to 6 year horizon and to provide the customer with a summary of the mutual fund and a prospectus. The customer in question purchased shares of the fund in 2000, before a period of significant market upheaval in 2000 to 2002. The customer did not make a complaint until 2004, three years after he had ceased to be a customer of Claimant, who had moved to another branch of Citicorp in 2001. Citicorp denied the complaint, finding it to be "without merit." The customer apparently did not pursue the complaint any further. Based on all of the foregoing, I find that the claim was factually impossible or clearly erroneous.

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 events giving rise to the dispute. Accordingly, as a party, Citicorp Investment Services is assessed the following:

Member Surcharge	= \$ 150.00
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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: June 21, 2018 1 session

One (1) hearing session on expungement request @ \$50.00/session =\$ 50.00
Hearing Date: October 15, 2018 1 session

Total Hearing Session Fees =\$ 100.00

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

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

ARBITRATOR

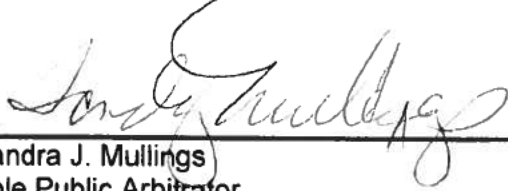
Sandra J. Mullings

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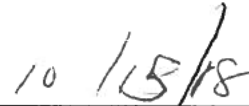
Sole Public Arbitrator

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



Sandra J. Mullings
Sole Public Arbitrator



Signature Date

October 16, 2018

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