

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Citigroup Global Markets, Inc.

Hearing Site: Los Angeles, California

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ (“Claimant”): Dochter Kennedy, MBA, J.D. and Harris Freedman, Esq., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent Citigroup Global Markets, Inc. (“Respondent”): Patrick S. Christensen, Esq., Bressler, Amery & Ross, P.C., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 28, 2018.
Claimant signed the Submission Agreement: February 28, 2018.

Statement of Answer filed by Respondent on or about: April 25, 2018.
Respondent signed the Submission Agreement: April 4, 2018.

CASE SUMMARY

Claimant requested expungement of three customer dispute occurrences (“Underlying Claims”): two customer complaints, occurrence numbers ██████████ and ██████████, and a FINRA Arbitration case, occurrence number ██████████, from his Central Registration Depository (“CRD”) record.

In the Statement of Answer, Respondent denied any allegations of wrongdoing and did not oppose the requested expungement relief.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Claims from his CRD record pursuant to:
 - a. FINRA Rule 2080(b)(1)(A) as the claim, allegation or information is factually impossible or clearly erroneous;

- b. FINRA Rule 2080(b)(1)(B) as Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds; and
 - c. FINRA Rule 2080(b)(1)(C) as the claim, allegation or information is false;
2. Damages in the amount of \$1.00 from Respondent; and
 3. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent objected to the request for damages in the amount of \$1.00; and requested that no forum fees be assessed against Respondent and that all other fees associated with this matter be assessed solely against Claimant.

During the expungement hearing, Claimant withdrew his request for damages in the amount of \$1.00 from Respondent.

OTHER ISSUES CONSIDERED AND DECIDED

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

On June 28, 2018, the Arbitrator and parties held an Initial Pre-hearing Conference. By Order that same date, the Arbitrator directed Claimant to give notice of the expungement hearing to the parties and to all interested customers in the Underlying Claims so that they may participate in the hearing if they choose to do so.

On September 10, 2018, Claimant provided a copy of his notice to the customers in occurrence number [REDACTED] ("Mr. and Mrs. S"), with a copy of the Statement of Claim and notice of the expungement hearing. On September 24, Claimant provided an Affidavit of Service advising that Mr. and Mrs. S had been served with the Statement of Claim. On October 5, Claimant provided a copy of a follow-up letter to Mr. and Mrs. S advising of a change in the expungement hearing date.

On October 8, 2018, Claimant provided a copy of his notice to the customer in occurrence number [REDACTED] ("Mr. D"), with a copy of the Statement of Claim and notice of the expungement hearing. On October 17, Claimant provided an Affidavit of Service advising that Mr. D had been served with the Statement of Claim.

On October 8, 2018, Claimant provided an Affidavit advising that he was unable to serve the customer in occurrence number [REDACTED] ("Mr. H"), which complaint was received by Respondent in May 2002. Claimant advised that he used all relevant documentation and information in his position to search the public information available on the LexisNexis database for Mr. H's contact information. Claimant also advised that Respondent was unable to provide any new information regarding Mr. H to assist Claimant.

The Arbitrator conducted a recorded telephonic hearing on October 12, 2018 so the parties could present oral argument and evidence on Claimant's requests for expungement. Respondent participated in the expungement hearing and did not oppose the requests for expungement.

None of the customers participated in the expungement hearing. The Arbitrator determined that Mr. and Mrs. S and Mr. D had all been properly served with the Statement of Claim and received due notice of the hearing. After a review of Claimant's efforts to obtain Mr. H's contact information, as outlined earlier, the Arbitrator determined that Claimant had exercised due diligence in his search and that the expungement hearing would proceed without notice to Mr. H.

The Arbitrator reviewed Claimant's BrokerCheck® Report and found that the complaints of both Mr. and Mrs. S and Mr. H were denied (and not settled) and therefore there were no settlement agreements to review.

The Arbitrator noted that Claimant did not previously file a claim requesting expungement of occurrence numbers [REDACTED] and [REDACTED] from his CRD record.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Statement of Claim; Statement of Answer (wherein Respondent advised it has no objection to the expungement requests); Claimant's BrokerCheck® Report; Claimant's Hearing Exhibits; and Claimant's testimony during the expungement hearing.

The Arbitrator has agreed that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's request for expungement of occurrence number [REDACTED] is denied.
2. The Arbitrator recommends the expungement of occurrence numbers [REDACTED] and [REDACTED] from registration records maintained by the 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 of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous;
and

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons for both Mr. and Mrs. S and Mr. H's complaints:

Claimant was employed as a client services associate. Claimant did not give financial advice to these customers or to anyone while employed as a client services associate. From the pleadings and Claimant's sworn testimony, it is clear that Mr. H and the attorney for Mr. and Mrs. S included Claimant in their complaints without regard to Claimant's relationship with his employer or the customers. Accordingly, the allegations made by these customers as to the advice given by Claimant is simply factually impossible and false.

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

FEES

Pursuant to the Code, 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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge	= \$ 150.00
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Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

September 17, 2018, postponement by Claimant	= \$ 50.00
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Total Postponement Fees	= \$ 50.00
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The Panel has assessed \$25.00 of the postponement fees to Claimant.

The Panel has assessed \$25.00 of the postponement to Respondent.

Last Minute Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within ten calendar days before the start of a scheduled hearing session:

September 12, 2018, postponement requested by Claimant	= \$ 600.00
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Total Last Minute Cancellation Fees = \$ 600.00

The Arbitrator has assessed \$600.00 of the last minute cancellation fees to Claimant.

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 \$200.00 of the discovery-related motion fees to Respondent.

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(s), including a pre-hearing conference with the arbitrator(s), 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 28, 2018 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing Date: October 12, 2018 1 session

Total Hearing Session Fees = \$ 100.00

The Arbitrator has assessed \$50.00 of the hearing session fees to Claimant.
The Arbitrator has assessed \$50.00 of the hearing session fees to Respondent.

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

ARBITRATOR

Robert D. Sussin

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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



Robert D. Sussin
Sole Public Arbitrator

11/06/2018

Signature Date

November 6, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)