

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

---

In the Matter of the Arbitration Between:

Claimant

Case Number: [REDACTED]

vs.

Respondent

Hearing Site: Houston, Texas

Citigroup Global Markets, Inc.

---

Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant [REDACTED] ("Claimant"): Dochter Kennedy, Esq. and Harris Freedman, Esq., AdvisorLaw, LLC, Broomfield, Colorado.

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

**CASE INFORMATION**

Statement of Claim filed on or about: March 13, 2018.

Claimant signed the Submission Agreement: March 13, 2018.

Statement of Answer filed by Respondent on or about: May 3, 2018.

Respondent signed the Submission Agreement: April 4, 2018.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted a claim seeking expungement of a customer complaint, Occurrence Number [REDACTED], from his registration records maintained by the Central Registration Depository ("CRD").

In the Statement of Answer, Respondent denied any allegation of wrongdoing but did not oppose the request for expungement.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Occurrence Number [REDACTED] from the CRD, \$1.00 in compensatory damages, and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that the Arbitrator deny Claimant's

request for compensatory damages and that all forum or hearing fees related to this matter be assessed solely against Claimant.

On record at the hearing, Claimant withdrew his request for \$1.00 in compensatory damages.

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

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

On or about September 7, 2018, Claimant filed a copy of the letter sent to the customer for Occurrence Number [REDACTED] ("Customer"), providing him with the Statement of Claim, notice of the expungement hearing date and time, and the option to participate in the expungement hearing. On or about September 20, 2018, Claimant filed an Affidavit of Service for the letter sent to the Customer.

The Arbitrator conducted a recorded, telephonic hearing on October 8, 2018, so the parties could present oral argument and evidence on Claimant's request for expungement. Respondent participated in the expungement hearing but did not contest the request for expungement. The Customer did not participate in the expungement hearing.

At the hearing, based upon Claimant's assertion that the BrokerCheck® Report filed on September 13, 2018 was current as of March 2018, the Arbitrator ordered Claimant to provide an updated BrokerCheck® Report. On or about October 11, 2018, Claimant filed a response for the Arbitrator's consideration.

The Arbitrator reviewed the BrokerCheck® Report for Claimant. Based on testimony during the hearing, the Arbitrator noted that the auction rate security related to the Customer's complaint was repurchased pursuant to a global settlement the Respondent entered into with regulators and that no settlement agreement with the Customer exists. The Arbitrator noted that Claimant did not contribute to the settlement amount. The Arbitrator also considered the amount of payment made to any party and noted that this settlement was not conditioned on the Customer not opposing the request for expungement.

The Arbitrator found that Claimant did not previously file a claim requesting expungement of the same disclosure in the CRD.

In recommending expungement the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony, Claimant's BrokerCheck Report, Statement of Claim, Statement of Answer, Respondent's letter dated October 2, 2018 regarding record retention, Claimant's Affidavit of Service dated September 20, 2018, and Claimant's notice to the Customer dated September 7, 2018.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, 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 the 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 (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:

The Arbitrator is satisfied that the Customer had full knowledge and understanding of his transactions with Respondent and Claimant. The evidence shows that Claimant personally discussed Customer's investments with him. The Customer was fully informed of the nature of the transactions, their costs, and the risks involved. Claimant warned the Customer of the risks associated with his investments both orally and in writing. There was no underlying arbitration claim or civil litigation between the parties and the Customer in this matter. Rather, the underlying complaint was part of a global consent order. Claimant did not enter into a settlement with the Customer or contribute to any settlement of the complaint.

2. 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
--------------------------	------------

*\*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, Respondent 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 (1) discovery-related motion

---

Total Discovery-Related Motion Fees = \$ 200.00

The Arbitrator has assessed \$200.00 of the 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(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: July 10, 2018 1 session

One (1) hearing session on expungement request @ \$x.00/session = \$ 50.00  
Hearing Date: October 8, 2018 1 session

---

Total Hearing Session Fees = \$ 100.00

The Arbitrator has assessed \$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**

Sherry R. Wetsch

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**



\_\_\_\_\_  
Sherry R. Wetsch  
Sole Public Arbitrator

November 7, 2018  
Signature Date

**November 7, 2018**

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