

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., AdvisorLaw LLC, Broomfield, Colorado and Owen Harnett, Esq., HLBS Law, Westminster, 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: May 8, 2018.

Claimant signed the Submission Agreement: May 8, 2018.

Statement of Answer filed by Respondent on or about: July 20, 2018.

Respondent signed the Submission Agreement: July 26, 2018.

CASE SUMMARY

Claimant requested expungement of reference to a customer complaint, occurrence number ██████████ (“Underlying Complaint”) from her Central Registration Depository (“CRD”) records.

In the Statement of Answer, Respondent advised that it does not oppose Claimant’s request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Complaint from her CRD record pursuant to FINRA Rule 2080(b)(1)(A) as the claim, allegation or information is factually impossible or clearly erroneous;
2. Expungement of the Underlying Complaint from her CRD record pursuant to FINRA Rule 2080(b)(1)(C) as the claim, allegation or information is false;
3. An award of compensatory damages in the amount of \$1.00 from Respondent;
and
4. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent objected to Claimant's request for compensatory damages and requested that no forum fees be assessed against it.

At the expungement hearing, Claimant waived her 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 October 9, 2018, Claimant provided a copy of his notice to the customer in the Underlying Complaint ("Customer") regarding the Statement of Claim and notice of the expungement hearing. On October 16, 2018, Claimant provided an Affidavit of Service signed by Claimant's counsel advising that the Customer had been served with the Statement of Claim.

The Arbitrator conducted a recorded telephonic hearing on October 30, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement. Respondent participated in the expungement hearing and did not contest the request for expungement. The Customer did not appear at the expungement hearing. The Arbitrator found that the Customer was notified about the expungement hearing.

The Arbitrator reviewed Claimant's BrokerCheck® Report.

The Arbitrator determined that the Underlying Complaint was not settled and therefore there were no settlement agreements to review.

The Arbitrator noted that Claimant did not previously request expungement of the same disclosure in the CRD.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim, Claimant's oral testimony and Exhibit 2 to Claimant's Statement of Claim – Respondent's letter to the Customer dated March 23, 2009.

The parties present at the hearing have agreed that a handwritten, signed Award may be entered.

AWARD

1. The Arbitrator recommends the expungement of all references to the Underlying Complaint, occurrence number [REDACTED], from Claimant [REDACTED] (CRD# [REDACTED]) registration records maintained by the CRD, 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 finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The claim, allegation, or information is false.

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

The allegation made in this case is false under FINRA Rule 2080.

The product was suitable based on the investment goals and risk tolerance provided by the Customer. The two recommendations made by Claimant were suitable because the Customer had a long time horizon, which resulted in a need to generate growth to keep up with inflation, while still maintaining a conservative allocation of the invested funds.

Due to poor market timing, the funds decreased due to the Great Recession. However, in light of their time horizon and investment goals, the Customer had intended to hold onto these products for the next 35 years in a diversified portfolio to keep up with inflation and provide income for the Customer's wife upon his passing. But for the recession, these products would have met the Customer's investment goals and risk tolerance

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(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

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 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: September 14, 2018 1 session

One (1) Hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing Date: October 30, 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

Robert F. Saint-Aubin

-

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 F. Saint-Aubin
Sole Public Arbitrator

11-10-18

Signature Date

November 13, 2018

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