

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

Case Number [REDACTED]

[REDACTED]

vs.

Respondent

Hearing Site: Chicago, Illinois

Citigroup Global Markets, Inc.

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [REDACTED] ("Claimant"): Christopher Cummins, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, 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: February 28, 2018.
Claimant signed the Submission Agreement: February 28, 2018.

Statement of Answer filed on or about: April 20, 2018.
Respondent signed the Submission Agreement: April 14, 2018.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of three customer complaints from his registration records maintained by the Central Registration Depository ("CRD").

In the Statement of Answer, Respondent denied any allegations of wrongdoing and took no position on Claimant's request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers [REDACTED], [REDACTED], and [REDACTED] from his CRD records; an award of 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 requested that the Panel deny Claimant's request for damages and assess all fees solely against Claimant.

At the close of the hearing, Claimant agreed to drop all monetary damage claims against Respondent and to pay all FINRA fees for the expungement proceeding.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about October 24, 2018, Claimant provided the customer related to Occurrence Number [REDACTED] with a copy of the Statement of Claim and notice of the date and time for the hearing. On or about October 31, 2018, Claimant filed an affidavit of service on the customer related to Occurrence Number [REDACTED].

On or about October 25, 2018, Claimant filed an affidavit attesting to the efforts which were made to locate the customers related to Occurrence Numbers [REDACTED] and [REDACTED]. Claimant further stated that Respondent had been unable to provide any new information to assist with the search for valid addresses.

The Arbitrator conducted a recorded, telephonic hearing on December 19, 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 related to Occurrence Number [REDACTED] did not participate in the expungement hearing.

The Arbitrator determined that, based on the representations of counsel, the efforts to find current addresses for the customers related to Occurrence Numbers [REDACTED] and [REDACTED] were sufficient and the hearing would proceed.

The Arbitrator reviewed the BrokerCheck® Report for Claimant. The Arbitrator noted that the underlying complaints did not result in settlement agreements.

The Arbitrator noted 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: Disclosures 2, 3, and 4 on Claimant's Broker Check Report and the Individual Snapshot Report, which was included as Exhibit 1 to the Statement of Claim.

AWARD

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

1. The Arbitrator recommends the expungement of all references to Occurrence Numbers [REDACTED], [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, 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 in regards to Occurrence Number [REDACTED] based on the following reasons:

The underlying customer complaint is clearly erroneous and false because the portfolio changes were instigated at the customer's direction to attain potential gains for defraying the costs of increased spending by the customer.

The Arbitrator has made the above Rule 2080 findings in regards to Occurrence Number [REDACTED] based on the following reasons:

The underlying customer complaint is clearly erroneous and false because use of a margin account was made at the customer's direction to maintain a high risk, concentrated position in securities that the customer was unwilling to sell against Claimant's advice.

The Arbitrator has made the above Rule 2080 findings in regards to Occurrence Number [REDACTED] based on the following reasons:

The underlying customer complaint is clearly erroneous and false because the customer had no evidence that Claimant failed to follow the customer's instructions on trading within an account that was non-discretionary, had a wrap fee, and was not managed by Claimant.

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

**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

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 27, 2018 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing Date: December 19, 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.

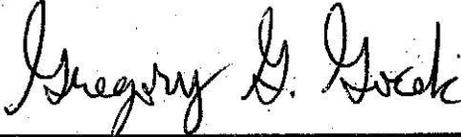
ARBITRATOR

Gregory G. Gocek

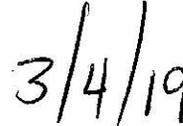
Sole Public Arbitrator

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



Gregory G. Gocek
Sole Public Arbitrator



Signature Date

March 4, 2019

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