

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Timothy John Nolan

Case Number: 20-01506

vs.

Respondent
Citigroup Global Markets, Inc.

Hearing Site: Boston, Massachusetts

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant Timothy John Nolan: Jonathan M. Sterling, Esq., Saretsky Hart Michaels + Gould PC, Birmingham, Michigan.

For Respondent Citigroup Global Markets, Inc.: Adam M. Kauff, Esq., Kauff Laton Miller LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: May 12, 2020.

Timothy John Nolan signed the Submission Agreement: May 12, 2020.

Statement of Answer filed by Respondent on or about: July 8, 2020.

Citigroup Global Markets, Inc. signed the Submission Agreement: July 8, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of customer dispute information from registration records maintained by the Central Registration Depository (“CRD”).

In the Statement of Answer, Respondent did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of all references and information related to the December 24, 2008 disclosure on his BrokerCheck® Report (Occurrence Number 1436361); compensatory damages in the amount of \$1.00 from Respondent; and such other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that Claimant's request for damages be denied.

At the hearing, Claimant withdrew the request for \$1.00 in damages.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On February 4, 2021, Claimant advised that the customer in Occurrence Number 1436361 was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on March 8, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement.

The customer did not participate in the expungement hearing. The Arbitrator found that the customer had notice of the expungement request and hearing.

The Arbitrator reviewed Claimant's BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrence in the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 1436361 was not settled and, therefore, there was no settlement document to review.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any 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 1436361 from registration records maintained by the CRD for Claimant Timothy John Nolan (CRD Number 4627563) with the understanding that, pursuant to Notice to Members 04-16, Claimant Timothy John Nolan 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; the registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and the claim, allegation, or information is false.

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

All evidence shows that Claimant was not in any way involved in the unauthorized trades complained of by the customer. Some error caused the customer complaint to be listed on Claimant's CRD.

Claimant testified under oath at the hearing that he was never associated with the customer and was not named in or had any involvement in either the FINRA arbitration case or a civil action between the customer and Citigroup Global Markets, Inc. ("Citigroup"). Claimant was not employed at the Citigroup office during the relevant time period.

Claimant was not involved in any part of this claim nor the underlying investment practices complained. Review of all the documents and the testimony in this case prove that the customer was never a client of Claimant and that Claimant had nothing to do with the customer's complaints. The customer never alleged anywhere in any of its complaints that Claimant was involved in any of the trade practices complained of. Thus, the customer's complaints, as against Claimant, are factually impossible and clearly erroneous.

Further, the customer was at all relevant times a client of Claimant's father, who was also a broker with Citigroup, which likely caused the error with the "Customer Dispute" being listed on Claimant's CRD. Claimant was not named in the customer's initial demand letter, in the customer's claims in court, nor in the underlying FINRA arbitration decided on March 18, 2010. The FINRA arbitration was conducted over three full days (six sessions) and Claimant had no involvement; he was not interviewed, deposed, or called as a witness. The customer's own words and actions show that the customer had no claim against Claimant because the customer made no claims against Claimant.

For much the same reasons, the Arbitrator finds Claimant was not involved in the alleged investment-related sales practice violations. Therefore, the claim as reflected on Claimant's broker disclosure (CRD), as against Claimant, is false and should be expunged.

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 Dispute Resolution Services 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 event giving rise to the dispute. Accordingly, as a party, Respondent Citigroup Global Markets, Inc. 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:

December 3, 2020, postponement jointly requested by the parties	WAIVED
January 7, 2021, postponement jointly requested by the parties	WAIVED

Last-Minute Cancellation Fees

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

January 7, 2021, cancellation requested by parties	WAIVED
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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, which 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 10, 2020 1 session		

One (1) hearing session on expungement request @ \$50.00/session	=\$	50.00
Hearing: March 8, 2021 1 session		

Total Hearing Session Fees	=\$	100.00
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The Arbitrator has assessed the total hearing session fees to Claimant.

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

ARBITRATOR

Mary E. Bassett

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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

Mary E. Bassett

Mary E. Bassett
Sole Public Arbitrator

03/17/2021

Signature Date

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March 17, 2021

Date of Service (For FINRA Dispute Resolution Services use only)