Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Daniel Cohen

Case Number: 20-01643

vs.

Respondent
Citigroup Global Markets, Inc.

Hearing Site: Boca Raton, Florida

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 Daniel Cohen: Cory Zadanosky, Esq., Zadanosky & Associates, P.A., Boca Raton, Florida.

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

CASE INFORMATION

Statement of Claim filed on or about: May 26, 2020.
Daniel Cohen signed the Submission Agreement: May 26, 2020.

Statement of Answer filed by Respondent on or about: July 15, 2020.
Citigroup Global Markets, Inc. signed the Submission Agreement: July 16, 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 Occurrence Numbers 1473332 and 1490094; compensatory damages in the amount of $1.00 from Respondent; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested a denial of Claimant's request for compensatory damages in the amount of $1.00.

At the close of 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 December 29, 2020, Claimant filed a Proof of Service advising that the customers ("Customers") in Occurrence Numbers 1473332 ("Customers A and B") and 1490094 ("Customer C") were served with the Statement of Claim and with notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on January 19, 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 Customers did not participate in the expungement hearing. The Arbitrator found that the Customers 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 occurrences in the CRD.

The Arbitrator also reviewed the settlement documents for both occurrences, considered the amount of payments made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to either settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim; Respondent's Answer and Defenses in the underlying FINRA Arbitration Case No. 09-04608; Customer C's performance evaluation of Claimant; Customer C's letter to Claimant dated December 17, 2009; and Claimant's Proof of Service upon the Customers.

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 Numbers 1473332 and 1490094 from registration records maintained by the CRD for Claimant Daniel Cohen (CRD Number 2414071) with the understanding that, pursuant to Notice to Members 04-16, Claimant Daniel Cohen 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 as to both occurrences:

   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:

   Claimant testified under oath that he has been in the securities industry for 27 years, that these occurrences are the only customer complaints on his CRD records, and that he has never been disciplined by an employer. Claimant is also a Certified Financial Planner ("CFP") and is in good standing. In October 2014, he formed Cohen Investment Advisors, LLC, prior to that he was employed with UBS Financial Services, Inc. ("UBS"), and prior to that he was employed with Respondent from 1993 to May 2008. ("Exhibit 1").

   As to Occurrence Number 1473332:

   Customers A and B are well educated, experienced, and sophisticated customers. They had a variety of investments from bonds, fixed income, mutual funds, equities, and cash. Claimant testified he spoke with Customers A and B on a weekly basis. The investments were within the parameters and they were suitable. There was no misrepresentation. The goals were income and growth with moderate risk. ("Exhibit 2" – pgs. 72-79). Customers A and B's account contained a wide range of securities, so it was a diversified account and based on their investment objectives. Customers A and B held investments forever, even when Claimant recommended a sale such as telephone securities, they did not always follow his recommendation. The couple was very informed and would call Claimant as to underwriting opportunities. Customers A and B also dealt with other investment firms. Sometimes, they would purchase investments and then transfer them to Claimant. They had a non-discretionary account with Respondent, where Claimant was required to obtain confirmation from them before he could take action. Claimant spoke with Customers A and B weekly and sometimes more than weekly. Claimant always obtained their approval before a purchase. Most of the securities in the account were purchased by different brokers. The

account was transferred initially from other brokers. In Claimant's opinion, they were his most informed clients.

Customers A and B would call Claimant about Respondent's involvement in the underwriting of a bond. Claimant did not always recommend or believe it was an attractive investment for them, and Customers A and B would still buy. The account was very diversified. Risk was protected by limiting the amount in one security - fixed income to bonds to corporate to preferreds. Also, the account had different industries for the bonds and same for different state bonds and varied maturity dates. The bonds were A-rated or better. Claimant would explain the risks for all types of securities and the market fluctuations, such as what happened in 2001-2002. This impacted Bethlehem Steel and Conseco and Customers A and B had a loss. Customers A and B bought securities but did not sell, which was not considered active according to Claimant's testimony. They traded after Claimant left, and some of the trades are what they claim were unsuitable. The investments Claimant made for Customers A and B, which they approved, were suitable and cleared with them and discussed in detail. Claimant did not make any misrepresentation to Customers A and B. They had a gain from December 2007-2009; there was no loss in value. The claim is false according to Claimant's testimony. Customers A and B would receive confirmations and monthly statements and never complained to Claimant.

In July 2009, Customers A and B filed a complaint against Respondent only. ("Exhibit 2"). Respondent denied the claim. When Claimant voluntarily left Respondent and went to UBS in May 2008, Customers A and B were assigned a new advisor at Respondent. Then, in 2007-2008, it was the worst financial crisis. Claimant did nothing wrong, and Customers A and B's account made money as of 2009. Any decline was temporary and eventually increased. The underlying arbitration was settled for nuisance value, Claimant was not involved or a party, and Claimant made no contribution. The settlement agreement is not conditioned on expungement. ("Exhibit 3" pgs. 88-94). Claimant testified the allegations are false, erroneous, and he was not involved.

As to Occurrence Number 1490094:

Claimant testified that Customer C was a long-term client of Claimant, and a retiree who resided in South Florida. She was looking for income supplement. She is a cousin of Customers A and B. Customer C represented that she wanted income and tax deferral with moderate risk. She had accounts with other firms. Customer C was Claimant's customer from 1994 to May 2008. Customer C had only a non-discretionary account, just like Customers A and B. Claimant spoke with her once a week. She came to him with a fully invested portfolio. Her investment strategy was very similar to Customers A and B's investment strategy. Claimant would always call her before doing anything in her account. There was no discretion. She would receive a confirmation of any trade, and she never complained about any trade Claimant made. She received monthly statements, and there was no complaint after receiving a statement. Claimant testified that the allegation pertains to the Financial Advisor who took over after he left in May 2008. Unauthorized trading is false and does not apply to Claimant. Customer C's account consisted of fixed income and US bonds and municipal bonds, corporate high-grade bonds and corporate secured bonds, and a small amount of private stocks that she held for many years. The account was diversified and a mixed account. Just like Customers A and B's account.

Claimant testified that everything bought was to generate income. He spoke with Customer C weekly, did not trade without her authorization, and it was suitable and within her objectives. It was a very diversified account. He did not receive a commission on her account; it was paid by the underwriter. Customer C never questioned or complained throughout the fourteen (14) years she maintained an account with Claimant at Respondent. There was no unauthorized trading by Claimant. Customer C claimed that there were unsuitable asset allocation and unauthorized trades. Claimant was "shocked" by her complaint. In May 2008, Claimant left Respondent under good terms. Customer C had a different advisor before the filing of the complaint. Most securities were not purchased through Claimant; either transferred or bought by a different broker. For the securities Claimant did sell, there were confirmations and no complaints - 14 years as a customer, no complaints.

Then, approximately one and a half years after Claimant left Respondent, Customer C made the allegations. She did not contact Claimant. In 2008, Respondent sent Customer C an evaluation, and she said that Claimant was "Excellent". ("Exhibit 4" pgs. 95-96.). Then, in November 2009, Customer C filed her complaint. The next month in December 2009, Customer C sent Claimant a note and said Claimant was the "best broker I ever had." The note demonstrates she had a complaint with Respondent, but not with Claimant. ("Exhibit 5" pg. 97). Respondent settled the complaint for nuisance value. ("Exhibit 6" pgs. 98-103). Claimant testified that Customer C authorized and directed all trades and purchases and they were within her risk tolerance. There was no trade without speaking to Customer C and getting her approval. Claimant testified that the trades were directed against the broker who took over Customer C's account after he left. The claim is factually impossible and clearly erroneous, and he was not involved in the practice of unauthorized trading.

Neither Customers A and B nor Customer C participated in the hearing. The proof of delivery of the notice of the expungement request and hearing were delivered on December 9, 2020 and admitted into evidence ("Exhibit 1" pgs. 1-8).

In conclusion, the Arbitrator agrees that the burden has been met based on the testimony of Claimant, Exhibits 1-6, and the BrokerCheck Report. The Arbitrator recommends expungement for Occurrence Number 1473332, based on FINRA Rule 2080(b)(1)(A) (factually impossible or erroneous), FINRA Rule 2080(b)(1)(B) (not involved), and FINRA Rule 2080(b)(1)(C) (false). In addition, the complaint by Customer B did not involve Claimant as the complaint for unauthorized trades occurred after he left Respondent and was not about him.

Thus, the Arbitrator recommends expungement for Occurrence Number 1490094 based on FINRA Rule 2080(b)(1)(A) (factually impossible or erroneous), FINRA Rule 2080 (b)(1)(B) (not involved), and FINRA Rule 2080 (b)(1)(C) (false).

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

*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

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 15, 2020 1 session		
One (1) hearing session on expungement request @ $50.00/session	=$	50.00
Hearing Date: January 19, 2021 1 session		
Total Hearing Session Fees	=$	100.00

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

Kimberly A. Gilmour - 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

Kimberly A. Gilmour **01/25/2021**

Kimberly A. Gilmour
Sole Public Arbitrator

Signature Date

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01/25/2021
Date of Service (For FINRA Dispute Resolution Services use only)