

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
John David Glenn II

Case Number: 20-01822

vs.

Respondent
Citigroup Global Markets, Inc.

Hearing Site: San Diego, California

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

This case was administered under the Special Proceeding option for simplified cases.

REPRESENTATION OF PARTIES

For Claimant John David Glenn II (“Claimant”): Zachary T. Hayes-Macaluso, Esq., FA Expungement, LLC, Denver, Colorado.

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

CASE INFORMATION

Statement of Claim filed on or about: June 9, 2020.
Claimant signed the Submission Agreement: June 9, 2020.

Statement of Answer filed by Respondent on or about: August 6, 2020.
Respondent signed the Submission Agreement: August 7, 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 and denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 68298 from Claimant's CRD records in accordance with FINRA Rule 2080(b)(1)(C), pursuant to a finding that the claims, allegations or information are false;
2. Expungement of Occurrence Number 68299 from Claimant's CRD record in accordance with FINRA Rule 2080(b)(1)(B), pursuant to a finding that the registered person was not involved in the alleged investment-related sales practice violation, or FINRA Rule 2080(b)(1)(C), pursuant to a finding that the claims, allegations or information are false; and
3. Compensatory damages in the amount of \$1.00 from Respondent.

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

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 December 8, Claimant advised that the customer in Occurrence Number 68298 ("Customer A") and the customer in Occurrence Number 68299 ("Customer B") were served with the Statement of Claim and notice of the date and time of the expungement hearing. Customer A and Customer B are hereinafter collectively referred to as the "Customers."

The Arbitrator conducted a recorded, telephonic hearing on February 18, 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.

Claimant was unable to locate and produce the settlement agreements that relate to Occurrence Numbers 68298 and 68299 ("Settlement Agreements") for the Arbitrator to review. On February 5, 2021, Claimant's counsel submitted a letter to the Arbitrator stating that Respondent's counsel conducted a diligent search for the Settlement Agreements and was unable to locate any documents concerning the customer complaints in Occurrence Numbers 68298 and 68299, including the Settlement Agreements. The Arbitrator noted that: (a) Claimant testified under oath that he did not participate in the settlements or contribute to the settlement amounts; (b) Claimant's BrokerCheck® Report shows that he did not contribute to the settlements; and (c) expungement is still appropriate as diligent efforts were made to locate the Settlement

Agreements and the available evidence shows that Claimant was not involved with the settlements.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the Statement of Claim; Claimant's Submission Agreement; the Statement of Answer; Respondent's Submission Agreement; Claimant's testimony; Claimant's exhibits; Claimant's BrokerCheck® Report; and the correspondence and testimony regarding the Settlement Agreements.

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:

The Arbitrator recommends the expungement of all references to Occurrence Numbers 68298 and 68299 from registration records maintained by the CRD for Claimant John David Glenn II (CRD Number 1752345) with the understanding that, pursuant to Notice to Members 04-16, Claimant John David Glenn II 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.

Occurrence Number 68298:

Pursuant to Rule 13805 of the Code of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative findings of fact with respect to Occurrence Number 68298:

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 findings based on the following reasons:

Claimant has been a broker for over thirty-four years. Claimant was introduced to Customer A when he was an employee at Bateman Eichler, Hill Richards, Inc. ("Bateman Eichler"). During this time, Customer A invested in a single-issue municipal bond, which was unmanaged, undiversified and paid tax-free income twice per year. In 1988, Claimant voluntarily left Bateman Eichler and began working at Shearson Lehman Hutton, Inc. ("Shearson"). Customer A willingly transferred her account to Shearson to remain with Claimant.

In 1989, Claimant discussed the option of selling Customer A's original municipal bond and purchasing four municipal closed-end bond trusts, which would provide Customer A with monthly tax-free income, immediate liquidity and a significant reduction in risk-exposure. Claimant received verbal authorization for the sale and purchases from

Customer A over the phone. Customer A's adult daughter was also present on the phone for the sale and purchase authorization. Customer A signed a subscription agreement and was provided with written confirmations of the sale and purchases of the municipal bonds. At the time of these transactions, all sales and purchases in customer accounts were non-discretionary. Additionally, Customer A received monthly statements by mail for approximately two years regarding the four new municipal closed-end bond trusts.

Customer A never called or came in to complain to Claimant regarding the sale or purchases and she did not file a complaint until two years after the sale and purchases had taken place. There is no evidence presented that Customer A took any immediate action to dispute the alleged unauthorized trades, and Customer A failed to act thereon for two years. For these reasons, the Panel grants expungement pursuant to FINRA Rules 2080(b)1(A) because the claim, allegation or information is factually impossible or clearly erroneous, and 2080(b)1(C) because the claim, allegation or information is false.

Additionally, this expungement would have no material adverse effect on investor protection, the integrity of the CRD system, or regulatory requirements. The existence of Occurrence Number 68298 has harmed Claimant because he is required to disclose it continually and it is available to the public, thus its expungement will accurately represent Claimant's CRD record.

Occurrence Number 68299:

Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative findings of fact with respect to Occurrence Number 68299:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The claim, allegation, or information is false.

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

Claimant was assigned Customer B's account when the original broker who was responsible for the alleged unsuitable transactions was terminated from Shearson. Claimant only consummated one transaction for Customer B and he never received a complaint about such transaction. Claimant testified under oath that he was not involved in and had no knowledge of the alleged unsuitable transactions in Customer B's complaint. Claimant testified there was no way any of the alleged unsuitable transactions could be attributed to Claimant because the damages sought by Customer B in the underlying complaint far exceeded the amount of the transaction handled by Claimant.

There is no evidence that Claimant had any knowledge of, or ever transacted, unsuitable trades for Customer B. In fact, Claimant's BrokerCheck® Report reflects that he was not named in the underlying complaint by Customer B and that the claim centered around Customer B's dealings with another broker. Notably, the reporting firm even provided a telephone number on the BrokerCheck® Report for people to contact for further information with respect to Occurrence Number 68299.

For these reasons, the Panel grants expungement pursuant to FINRA Rules 2080(b)(1)(B) because the registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds, and 2080(b)(1)(C) because the claim, allegation or information is false.

Additionally, this expungement would have no material adverse effect on investor protection, the integrity of the CRD system, or regulatory requirements. The existence of Occurrence Number 68299 has harmed Claimant because he is required to disclose it continually and it is available to the public, thus its expungement will accurately represent Claimant's CRD record.

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(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
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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: October 6, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	=\$	50.00
Hearing: February 18, 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

Constance Ellen Boukidis

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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

Constance Ellen Boukidis

Constance Ellen Boukidis
Sole Public Arbitrator

03/12/2021

Signature Date

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March 12, 2021

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