

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Shomir Mukherjee

Case Number: 20-02034

vs.

Respondent
Citigroup Global Markets, Inc.

Hearing Site: Los Angeles, 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

REPRESENTATION OF PARTIES

For Claimant Shomir Mukherjee (“Claimant”): Steve A. Buchwalter, Esq., Law Offices of Steve A. Buchwalter, P.C., Encino, California.

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: July 7, 2020.
Claimant signed the Submission Agreement: June 10, 2020.

Statement of Answer filed on or about: August 28, 2020.
Respondent signed the Submission Agreement: August 31, 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 Number 1424421 from his CRD records pursuant to FINRA Rule 2080(b)(1)(C).

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

OTHER ISSUES CONSIDERED AND DECIDED

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

On April 21, 2021, Claimant advised that the customer in Occurrence Number 1424421 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. On June 2, 2021, the Customer submitted a letter opposing expungement.

The Panel conducted a recorded, telephonic hearing on June 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 Customer did not participate in the expungement hearing. The Panel found that the Customer had notice of the expungement request and hearing.

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

The Panel noted that the dispute related to Occurrence Number 1424421 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimant's Statement of Claim; Respondent's Statement of Answer; proof of service on the Customer; Claimant's BrokerCheck® Report; the Customer's letter dated June 2, 2021; and Claimant's exhibits.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of all references to Occurrence Number 1424421 from registration records maintained by the CRD for Claimant Shomir Mukherjee (CRD Number 4121898) with the understanding that, pursuant to Notice to Members 04-16, Claimant Shomir Mukherjee 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 Panel has made the following Rule 2080 affirmative findings of fact:

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

The claim, allegation, or information is false.

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

Claimant has been a broker for 21 years. At the time of the alleged incident, in early 2008, Claimant had been employed at Citigroup as a Financial Advisor since 2002. He was covering the Citibank branch in Canoga Park, California. The Customer who made the underlying complaint was referred to Claimant by one of his bank associates at the branch. There was not a preponderance of evidence showing a misrepresented investment.

Respondent in its Statement of Answer stated that it did not oppose the expungement. Further, counsel for Respondent, Adam Kauff, appeared telephonically at the expungement hearing and stated that Respondent did not oppose Claimant’s Request for Expungement.

Claimant’s counsel served a copy of his Statement of Claim, along with notice of the expungement hearing, on the Customer on April 20, 2021. The Customer responded with a letter sent via email prior to the hearing stating the reasons why she opposes the expungement, including, but not limited to, she was not given any risk advice, she was not apprised that Claimant would receive a \$350 commission fee for the purchase, and she does not recall receiving new advice from him.

In Claimant’s words, he met with the Customer three times over the course of about a week’s time. The Customer had assets in her IRA that she wanted to invest. The first session was a full and complete discovery session. The Customer indicated that she wanted to invest in something secure with high dividends as interest rates were low at that time. After a detailed discussion about her financial goals covering investment objectives, time horizon, risk tolerance, and investment experience, Claimant presented her with a diversified investment plan across several different asset classes, which also included the new issue Citigroup Preferred stock offering that paid a 7% dividend. This got her attention. At the second meeting, Claimant met with the Customer and her husband. At the third meeting, the Customer decided to open an account with Claimant and was ready to purchase the stock at issue. He fully apprised her about the details regarding capital markets and risks involved. He had explained to her that since it was a preferred stock, it was backed by the issuer and could lose its value but the dividends would still be paid. Although any bank can go under, at that time, according to Forbes, Citibank was the number one commercial bank in the world. He was not aware of receiving any commission from this sale, it may have been marked up in the price. He owned the investment itself and was watching it after the 2008 economic collapse, and after the Troubled Asset Relief Program (TARP) was implemented, it came back in value, so he does not believe she lost any money. In fact, she came back to him for advice regarding this same stock after the TARP comeback. However, after the complaint, her

account was transferred from him so he could not advise her anymore. This investment, he would estimate, was about ten percent of her total account.

Claimant never saw the complaint that the Customer filed directly with Respondent. He was asked by the management and compliance department to provide details of the Customer meetings and investment. Respondent, according to Claimant's BrokerCheck® Report, denied the claim identified as Occurrence Number 1424421.

For all of these reasons, the Panel grants expungement pursuant to FINRA Rules 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous, and 2080(b)(1)(C), as the claim, allegation, or information is false.

Additionally, the Customer complaint holds no "meaningful regulatory or investor protection value." Its expungement would have no material adverse effect on investor protection, the integrity of the CRD system, or regulatory requirements. This occurrence actually has harmed Claimant over these years because he is required to disclose it continually and is available to the public. This expungement will accurately represent his 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	= \$ 1,575.00
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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 is assessed the following:

Member Surcharge	= \$ 1,900.00
Member Process Fee	= \$ 3,750.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

February 9, 2021, postponement requested by Claimant	= \$ WAIVED
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Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Panel, including a pre-hearing conference with the Panel, which lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	2,250.00
Pre-Hearing Conferences: October 23, 2020	1 session	
April 20, 2021	1 session	

One (1) hearing session on expungement request @ \$1,125.00/session	= \$	1,125.00
Hearing: June 18, 2021	1 session	

Total Hearing Session Fees	= \$	3,375.00
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The Panel has assessed the total hearing session fees to Claimant.

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

ARBITRATION PANEL

Constance Ellen Boukidis	-	Public Arbitrator, Presiding Chairperson
Erik R. Siering	-	Public Arbitrator
Brant Jackson Griffin	-	Non-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.

Concurring Arbitrators' Signatures

Constance Ellen Boukidis

Constance Ellen Boukidis
Public Arbitrator, Presiding Chairperson

07/01/2021

Signature Date

Erik R. Siering

Erik R. Siering
Public Arbitrator

06/30/2021

Signature Date

Brant Jackson Griffin

Brant Jackson Griffin
Non-Public Arbitrator

07/02/2021

Signature Date

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July 02, 2021

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