

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Joseph Marie Andreoli, Jr.

Case Number: 20-02131

vs.

Respondent

Citigroup Global Markets, Inc.

Hearing Site: Jersey City, New Jersey

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 Joseph Marie Andreoli, Jr.: Dochtor Kennedy, MBA, J.D. and Benjamin Winograd, Esq., AdvisorLaw, LLC, Westminster, Colorado.

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: July 6, 2020.

Joseph Marie Andreoli, Jr. signed the Submission Agreement: July 6, 2020.

Statement of Answer filed by Respondent on or about: August 26, 2020.

Citigroup Global Markets, Inc. signed the Submission Agreement: August 28, 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 1079774, 1426090, 1426091, 1426092 and 1500152; 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 that the Panel deny in its entirety Claimant's request for an award of damages in the amount of \$1.00.

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 29, 2020, February 12, 2021 and April 6, 2021, Claimant advised that the customers in Occurrence Numbers 1426090, 1426091, 1426092 and 1500152 were served with the Statement of Claim and notice of the date and time of the expungement hearing. On February 15, 2021 and April 12, 2021, Claimant filed Affidavits confirming that the customers were served with the Statement of Claim and notice of the date and time of the expungement hearing.

Claimant provided FINRA Dispute Resolution Services with an Affidavit dated December 29, 2020 stating that Claimant was unable to locate the customer for Occurrence 1079774. The customer was therefore not provided a copy of the Statement of Claim and did not participate in the expungement hearing.

On January 4, 2021, the customers for Occurrence Number 1426091 and 1426092 filed a joint response to Claimant's request for expungement.

The Arbitrator conducted a recorded, telephonic hearing on May 12, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and did not oppose the request for expungement.

The customers related to Occurrence Numbers 1426090, 1426091, 1426092 and 1500152 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 documentation related to Occurrence Number 1500152, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount.

The Arbitrator noted that the disputes related to Occurrence Numbers 1079774, 1426090, 1426091 and 1426092 were not settled and, therefore, there were no settlement documents to review.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, 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 1079774 from registration records maintained by the CRD for Claimant Joseph Marie Andreoli Jr. (CRD Number 1718688) with the understanding that, pursuant to Notice to Members 04-16, Claimant Joseph Marie Andreoli Jr. 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 finding of fact:

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

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

Claimant testified that the customer's allegations are "not true". Claimant testified that the customer transferred her account from another brokerage firm to the Respondent firm because she wanted to diversify. He testified that he and the customer met in-person to discuss her risk tolerance, the duration of her investments and other related matters. They completed the opening account documents together. Her profile was moderate to aggressive, growth and income, and a long-term horizon of 20 years plus. He also testified that he then sent her an account verification form for her signature which she signed. Claimant testified that the customer was interested in a portfolio for retirement, including municipal bonds and corporate bonds, A rating or higher, all investment-grade. At that time, the customer was in her early forties and had no liquidity needs. There came a point when Claimant recommended that she purchase Boston Chicken bonds. Claimant testified that by providing written disclosure materials in the form of the prospectus and detailed notes from an analyst, he provided the customer with "full knowledge of the product". He testified that at the time, he believed the recommendation was suitable. At the hearing, Claimant characterized Boston Chicken as one of the "hottest growing franchises" at that time. Unfortunately, there came a time when Boston Chicken filed for bankruptcy. The customer's investment declined in value.

I find that the allegation against Claimant is clearly erroneous. There is no evidence that Claimant recommended unsuitable investments to his customer. Reliance is placed on Respondent's denial of the claim, which occurred around the time the complaint was brought and the result of Respondent's investigation. Finally, that the customer did not

pursue her complaint further is also telling. As such, I find that the allegation on Claimant's BrokerCheck® Report is clearly erroneous. This customer complaint has no regulatory or investor protection value. Under these circumstances and in equity and fairness, I recommend the expungement of this customer dispute information from Claimant's Central Registration Depository (CRD) record.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1426090 from registration records maintained by the CRD for Claimant Joseph Marie Andreoli Jr. (CRD Number 1718688) with the understanding that, pursuant to Notice to Members 04-16, Claimant Joseph Marie Andreoli Jr. 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 finding of fact:

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

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

Claimant testified that the customer's allegations are "not true". Claimant testified that he recommended four preferred stocks to the customer (lowest rating, A-) and that the customer invested \$25,000.00 in each, for a total investment of \$100,000.00. He testified that the two of them would speak on a weekly basis and review statements and confirmations. The customer also had online access to his account. He also testified that he would send his customer S&P and Moody's reports. They met "regularly" from 2005 to 2020. Claimant specifically testified that he explained the terms "call date" and "maturity date" to the customer. Documents introduced into evidence at the hearing show that the customer had been investing for well over ten (10) years by the time at issue. Unfortunately, there came a time when the value of the customer's account declined. Claimant noted that the customer's complaint was received within approximately a week of the stock market crash of 2008. The customer's wife continued to be his client for over ten (10) years after this customer dispute.

I find that the allegation against Claimant is clearly erroneous. There is no evidence that Claimant misled his customer regarding the terms "call dates" and "maturity dates" with respect to the value of his investment. Reliance is placed on Respondent's denial of the claim, which occurred around the time the complaint was brought and the result of Respondent's investigation. That the customer did not pursue his complaint further is also telling. Finally, the timing of the dispute is noteworthy—the decline in the customer's investment value occurred during the stock market crash of 2008. As such, I find that the allegation on Claimant's BrokerCheck® Report is clearly erroneous. This customer complaint has no regulatory or investor protection value. Under these circumstances and in equity and fairness, I recommend the expungement of this customer dispute information from Claimant's Central Registration Depository (CRD) record.

3. The Arbitrator recommends the expungement of all references to Occurrence Number 1426091 from registration records maintained by the CRD for Claimant Joseph Marie Andreoli Jr. (CRD Number 1718688) with the understanding that, pursuant to Notice to Members 04-16, Claimant Joseph Marie Andreoli Jr. 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 finding of fact:

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

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

According to the documentary evidence presented at the hearing, the customer withdrew the complaint on October 17, 2008, that is, shortly after it was made. More recently, customer reiterated his withdrawal of the allegations against Claimant in an email to FINRA in anticipation of the hearing.

I find that the allegations against Claimant is clearly erroneous. In the end, the allegations against Claimant were withdrawn. his customer complaint has no regulatory or investor protection value. Under these circumstances and in equity and fairness, I recommend the expungement of this customer dispute information from Claimant's Central Registration Depository (CRD) record.

4. The Arbitrator recommends the expungement of all references to Occurrence Number 1426092 from registration records maintained by the CRD for Claimant Joseph Marie Andreoli Jr. (CRD Number 1718688) with the understanding that, pursuant to Notice to Members 04-16, Claimant Joseph Marie Andreoli Jr. 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 finding of fact:

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

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

According to the documentary evidence presented at the hearing, the customer the customer withdrew the complaint on December 9, 2008, that is, shortly after it was made. More recently, customer reiterated his withdrawal of the allegations against Claimant in an email to FINRA in anticipation of the hearing.

I find that the allegations against Claimant is clearly erroneous. In the end, the allegations against Claimant were withdrawn. This customer complaint has no regulatory or investor protection value. Under these circumstances and in equity and fairness, I recommend the expungement of this customer dispute information from Claimant's Central Registration Depository (CRD) record.

5. The Arbitrator recommends the expungement of all references to Occurrence Number 1500152 from registration records maintained by the CRD for Claimant Joseph Marie Andreoli Jr. (CRD Number 1718688) with the understanding that, pursuant to Notice to Members 04-16, Claimant Joseph Marie Andreoli Jr. 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 finding of fact:

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

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

Claimant testified that the customer's allegations are "not true". Claimant testified that the customer was an experienced investor at the time at issue. This testimony was supported by documentary evidence presented at the hearing which stated the customer's experience with bonds since 1990 and with stocks since 1996. Documentary evidence also shows that the customer's primary investment objective was growth, and his risk tolerance was initially aggressive, and then subsequently changed to moderate. Claimant testified that he discussed the advantages and disadvantages of investing in the annuities before the customer agreed to purchase them. He also testified that the customer would always ask him "a lot of" questions, which he would answer. He testified that he and the customer met every four (4) to six (6) weeks for twenty (20) years. He testified that the customer had "full knowledge in writing and verbally of everything he bought." Claimant testified that the customer carefully reviewed his account documents and recalled when the customer questioned a postage charge of \$7.95 on his statement.

I find that the allegation against Claimant is clearly erroneous. Reliance is placed on the facts that the settlement agreement states that the case was settled prior to the completion of discovery and the settlement amount was less than twenty-five percent (25%) of the damages claimed, which both support the statement of the BrokerCheck® Report that settlement was entered into by the firm to avoid the ongoing costs and uncertainty of arbitration. Reliance is also placed on the fact that Claimant did not contribute toward the settlement. This customer complaint has no regulatory or investor protection value. Under these circumstances and in equity and fairness, I recommend the expungement of this customer dispute information from Claimant's Central Registration Depository (CRD) record.

6. 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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent Citigroup Global Markets, inc. is assessed the following:

Member Surcharge =\$ 150.00

Postponement Fees

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

February 4, 2021, postponement requested by Parties. WAIVED

March 25, 2021, postponement requested by Claimant. 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:

February 4, 2021, cancellation requested by Parties. WAIVED

March 25, 2021, cancellation requested by Claimant. WAIVED

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 13, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session =\$ 50.00
Hearing: May 12, 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

Annamaria Boccia Smith

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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

Annamaria Boccia Smith

Annamaria Boccia Smith
Sole Public Arbitrator

05/19/2021

Signature Date

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May 19, 2021

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