

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Grant Carey Johnstone

Case Number: 20-02894

vs.

Respondent
Citigroup Global Markets, Inc.

Hearing Site: Portland, Oregon

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 Grant Carey Johnstone (“Claimant”): John T. Carr, Esq., Carr Butterfield, LLP, Lake Oswego, Oregon.

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: August 31, 2020.
Amended Statement of Claim filed on or about: January 12, 2021.
Claimant signed the Submission Agreement: August 31, 2020.

Statement of Answer filed by Respondent on or about: October 21, 2020.
Respondent signed the Submission Agreement: October 28, 2020.

CASE SUMMARY

In the Statement of Claim and Amended 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:

1. Expungement of Occurrence Numbers 1185823 and 1256477 from Claimant's CRD records pursuant to FINRA Rule 2080 (b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous;
2. Expungement of Occurrence Numbers 1185823 and 1256477 from Claimant's CRD records pursuant to FINRA Rule 2080 (b)(1)(C), as the claim, allegation, or information is false;
3. Compensatory damages in the amount of \$1.00 from Respondent; and
4. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent opposed Claimant's request for compensatory damages in the amount of \$1.00.

In the Amended Statement of Claim, Claimant withdrew a claim for compensatory damages in the amount of \$1.00 from Respondent.

On February 19, 2021, Claimant withdrew the Amended Statement of Claim.

At the hearing, Claimant withdrew the claim for compensatory damages in the amount of \$1.00 from Respondent.

OTHER ISSUES CONSIDERED AND DECIDED

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

On January 19, 2021, Claimant filed a motion to amend the Amended Statement of Claim, to which no response was filed. The Arbitrator granted the motion.

On February 18, 2021, Claimant filed an unopposed motion to withdraw the Amended Statement of Claim. The Arbitrator did not rule on this motion.

On February 19, 2021, Claimant advised that the Statement of Claim and notice of the date and time of the expungement hearing were sent to the customers in Occurrence Numbers 1185823 and 1256477 ("Customers") via certified mail.

The Arbitrator conducted a recorded, telephonic hearing on April 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 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 noted that the disputes related to Occurrence Numbers 1185823 and 1256477 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: Claimant's testimony and exhibits.

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 1185823 and 1256477 from registration records maintained by the CRD for Claimant Grant Carey Johnstone (CRD Number 2876349) with the understanding that, pursuant to Notice to Members 04-16, Claimant Grant Carey Johnstone 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.

The claim, allegation, or information is false.

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

Occurrence Number 1185823

Claimant was involved with the customers and recommended investments for them. The customers never filed a formal complaint, and whatever letter they may have written in 2005 was never discovered by Claimant and Respondent, so it was unavailable for review at the hearing.

Claimant testified that he recommended appropriate and entirely suitable mutual funds for the customers and reviewed the risks and fees associated with each fund. The customers received prospectuses, brochures, and regular reviews of their mutual fund investments and associated fees.

The customers never alleged damages, sought administrative investigation, or relief of any kind. After review of the matter, Respondent found the customers' claims to be false, clearly erroneous, factually impossible, and without merit. The sole arbitrator in this proceeding agrees. The CRD entries pertaining to this occurrence number are false and continue to unjustly cause Claimant to suffer ongoing reputational damage and should be removed from his CRD records.

Occurrence Number 1256477

Claimant testified at length during the telephonic expungement. This testimony led the sole arbitrator to believe Claimant was not involved in the alleged sales practice violations that were the subject of the customers' claims against Solomon Smith Barney, a division of Respondent.

Claimant has no recollection of ever meeting or speaking with the customers or of being involved with any discussions, research, or activities of any type regarding the customers' investments. Claimant's father (deceased for about a decade) was also employed by Solomon Smith Barney at the time and a preponderance of the evidence indicates that he and not Claimant, was involved in the customers' investments. Therefore, Claimant was not involved in the alleged investment-related sales practice violation.

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

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 @ \$450.00/session	= \$	450.00
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Pre-Hearing Conference: December 8, 2020	1 session		
One (1) hearing session on expungement request @ \$450.00/session		= \$	450.00
Hearing: April 8, 2021	1 session		
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Total Hearing Session Fees		= \$	900.00

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

Charles Scott McClellan

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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

Charles Scott McClellan

Charles Scott McClellan
Sole Public Arbitrator

04/28/2021

Signature Date

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April 28, 2021

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