

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Patrick Giblin

Case Number: 20-03001

vs.

Respondent
Citigroup Global Markets, Inc.

Hearing Site: New York, New York

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 Patrick Giblin: Frances Menzer, Esq. and Dochter Kennedy, MBA, J.D., AdvisorLaw, LLC, Westminster, Colorado.

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

CASE INFORMATION

Statement of Claim filed on or about: September 4, 2020.
Patrick Giblin signed the Submission Agreement: September 4, 2020.

Statement of Answer filed by Respondent on or about: October 28, 2020.
Citigroup Global Markets, Inc. signed the Submission Agreement: October 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 Number 1520614; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deemed just and equitable.

In the Statement of Answer, Respondent requested: denial of Claimant's request for an award of damages from Respondent in its entirety.

At the beginning 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 or about April 6, 2021, Claimant filed with FINRA Dispute Resolution Services, the death record and obituary reflecting that the customer involved in Occurrence Number 1520614 ("Customer") passed away. On April 12, 2021, Claimant filed an Affidavit confirming that Claimant was unable to serve the Customer with the Statement of Claim and notice of the date and time of the expungement hearing because the Customer is deceased.

On or about April 28, 2021, Claimant filed with FINRA Dispute Resolution Services a copy of the Award rendered in the underlying claim and notice that Respondent affirmed it had no documents responsive to Claimant's Discovery Requests relating to the Customer's account information.

The Arbitrator conducted a recorded telephonic hearing on May 18, 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 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 occurrence in the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 1520614 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's oral testimony; Claimant's Statement of Claim and Pre-hearing brief; Respondent's Answer; the Award in the underlying FINRA arbitration; Claimant's BrokerCheck® Report; the Lexis Nexis Notice of the Customer's death; Respondent's Responses and Objections to Claimant's Discovery Requests.

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 Number 1520614 from registration records maintained by the CRD for Claimant Patrick Giblin (CRD Number 3176182) with the understanding that, pursuant to Notice to Members 04-16,

Claimant Patrick Giblin 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 claim, allegation, or information is false.

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

The Customer (deceased in May 2016) was a very successful businessman, a highly sophisticated and experienced investor with an estimated net worth of between forty to sixty million dollars. The Customer’s main investment objectives were for income and growth, with a long-time investment horizon (for his children) of more than ten years. The Customer’s risk tolerance was firm-coded as “aggressive” and he had no immediate liquidity needs. The Customer was fully informed by Claimant as to the benefits and risks of the securities at issue here. Fannie Mae, a quasi-government entity, had the inherent support of the federal government, the security was paying a higher-than-average quarterly dividend and was subject to a reduced marginal tax rate. Accordingly, the securities at issue had a AA rating at the time the Customer purchased them. Claimant’s recommendation that the Customer purchase Fannie Mae securities was well-founded and suitable at the time it was made, which was prior to the market downturn and the subsequent taking-over in receivership of Fannie Mae by the federal government in 2008-2009. The Customer’s allegations of breach of fiduciary duty, negligence, negligent supervision, fraud, and breach of contract were made in the Customer’s filing of a FINRA claim against Respondent in June 2010. Claimant was not named as a party in the arbitration. Claimant did not contribute to, nor was he asked to contribute to the payment of the award, or a portion of the damages requested against Respondent. The Customer remained a client of Claimant after the FINRA case was completed. Claimant’s BrokerCheck® reflects a record free of any other disputes in a record that covers Claimant’s more than twenty years in the industry.

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: January 14, 2021 1 session

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

Joan M. Traub

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Arbitrator's Signature

Joan M. Traub

Joan M. Traub
Sole Public Arbitrator

05/21/2021

Signature Date

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May 21, 2021

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