

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Michael DeWayne Brown

Case Number: 21-00061

vs.

Respondent

Citigroup Global Markets, Inc.

Hearing Site: Atlanta, Georgia

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 Michael DeWayne Brown: Benjamin Winograd, Esq. and Dochter Kennedy, JD, MBA, 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: January 11, 2021.

Michael DeWayne Brown signed the Submission Agreement: January 11, 2021.

Statement of Answer filed by Respondent on or about: March 2, 2021.

Citigroup Global Markets, Inc. signed the Submission Agreement: March 3, 2021.

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 any allegations of wrongdoing.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1009937

and any and all other relief that the Arbitrator deemed just and equitable.

In the Statement of Answer, Respondent did not delineate a specific relief request.

OTHER ISSUES CONSIDERED AND DECIDED

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

On February 22, 2021, the parties filed with FINRA Dispute Resolution Services a Joint Stipulation to have this matter heard by one arbitrator, instead of the three-arbitrator panel prescribed under the Code of Arbitration Procedure (the "Code"). Accordingly, only one arbitrator was appointed to decide this matter.

On May 24, 2021, Claimant filed an Affidavit confirming that the customer in Occurrence Number 1009937 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on September 28, 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 Arbitrator found that the Customer had notice of the expungement request and hearing.

The Claimant was unable to obtain his BrokerCheck® Report as he is no longer a financial advisor and no longer works for a FINRA registered broker. Claimant is an investment advisor, and he submitted an Investment Advisor Public Disclosure ("IAPD") Report. The Arbitrator reviewed Claimant's IAPD Report. The Arbitrator noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrence in the CRD.

Claimant's employer at the time of the dispute, Salomon Smith Barney, Inc., investigated the Customer's claim, denied it, and closed the file. The Customer took no further action. The Arbitrator noted that the dispute related to Occurrence Number 1009937 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 Statement of Claim; Claimant's IAPD Report; Proof of Service for Notice of Expungement Hearing with Statement of Claim to the Customer; April 26, 2001, letter to a Manager at Salomon Smith Barney Inc., by the Customer regarding her complaint against Claimant and her narrative of the events; September 10, 2001, letter to the New York Stock Exchange ("NYSE") by Claimant in response to the Customer's letter and complaint with his narrative of the events; and, the Transcript of Interview of Claimant by the NYSE investigating the complaint.

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 1009937 from registration records maintained by the CRD for Claimant Michael DeWayne Brown (CRD Number 3138638) with the understanding that, pursuant to Notice to Members 04-16, Claimant Michael DeWayne Brown 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, 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 filed a complaint with Claimant's broker that "alleges FC used misleading tactics that led her to exercise and hold on margin 800 WorldCom stock options." The Customer alleged damages of \$14,950.00. Claimant submitted as evidence both the Customer's written complaint and his written response. Claimant testified that both his broker and the NYSE investigated the matter and found that he had acted properly and was not involved in any wrong actions. The Customer was informed that her complaint was without merit and took no further action. The great preponderance of the evidence presented shows that the Customer called Claimant to exercise her employee stock options due to a price increase in her company stock. Claimant did not solicit her and advised her of three options for exercising her stock options. The Customer chose to purchase the stock and hold it. The Customer did not have the funds to purchase the option for 1,200 shares. She paid \$6,000.00 to purchase 800 shares on margin. Claimant explained the procedure for buying stock on margin with the downside of taking out a loan from the broker, paying interest and taxes with the possibility of a margin call if the stock price fell requiring paying additional funds to the broker or selling some stock. The Customer said she understood, and still wanted to buy the stock on margin because she strongly believed in WorldCom's future. The Customer signed the Broker's documents to open a new account and documents that explained margin stock purchase and authorized the purchase itself. Over the years, the Customer paid almost \$9,000.00 in margin calls, despite Claimant's recommendation that she diversify her portfolio, and/or sell some of her stock to bring down her loan. Claimant testified that the Customer thanked him for his help and never complained to him until he received a copy of her complaint. The Arbitrator finds that the Customer's allegations and version of events are not credible, not supported by the evidence, and therefore, clearly erroneous and false. For these reasons, expungement of Claimant's record is appropriate.

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:

Expungement 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 Citigroup Global Markets, Inc. 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 @ \$1,125.00/session	=\$ 1,125.00
Pre-Hearing Conference: May 10, 2021	1 session

One (1) hearing session on expungement request @ \$1,125.00/session	=\$ 1,125.00
Hearing: September 28, 2021	1 session

Total Hearing Session Fees	=\$ 2,250.00
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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

Michael J. Ahlstrom

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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

Michael J. Ahlstrom

Michael J. Ahlstrom
Sole Public Arbitrator

10/06/2021

Signature Date

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October 06, 2021

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