

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Joel L. Konigsberg

Case Number: 21-00572

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 Joel Leslie Konigsberg: David I. Hantman, Esq., Bressler, Amery & Ross, P.C., New York, New York.

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: March 2, 2021.
Joel L. Konigsberg signed the Submission Agreement: March 2, 2021.

Statement of Answer filed by Respondent on or about: April 28, 2021.
Citigroup Global Markets, Inc. signed the Submission Agreement: June 16, 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.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1402610.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

The parties agreed to proceed with a single arbitrator for this matter.

On June 12, 2021, Claimant advised that the customer in Occurrence Number 1402610 was served with the Statement of Claim and notice of the date and time of the expungement hearing. On July 16, 2021, Claimant filed an Affirmation confirming that the 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 August 2, 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 and confirmed by email that he did not object to Claimant's expungement request. The Arbitrator found that the customer 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 occurrence in the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 1402610 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 BrokerCheck® Report; the customer's email; the pleadings; Claimant's testimony; and the 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 Number 1402610 from registration records maintained by the CRD for Claimant Joel L. Konigsberg (CRD Number 2434311) with the understanding that, pursuant to Notice to Members 04-16, Claimant Joel L. Konigsberg 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; and the claim, allegation, or information is false.

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

At the time of the customer’s Auction Rate Securities (“ARS”) purchases, the securities were AAA rated, insured, providing enhanced, tax-free income significantly higher than money market funds, and were accordingly a suitable investment at the time of purchase. The industry-wide failure of ARS auctions in February 2008 affected the liquidity of the customer’s positions. Due to the fact that the customer continued to hold the securities, in accordance with Claimant’s advice, he continued to receive regular income payments at enhanced yields, and upon the sale of the ARS later in the year, was able to receive the full principal back, thus ultimately earning a net profit on the ARS.

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

**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 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) hearing session on expungement request @ \$1,125.00/session = \$ 1,125.00
Hearing: August 2, 2021 1 session

Total Hearing Session Fees = \$ 1,125.00

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

08/06/2021

Signature Date

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August 09, 2021

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