

**Award**  
**FINRA Dispute Resolution Services**

---

In the Matter of the Arbitration Between:

Claimant  
Damon D. Johnson

Case Number: 21-01402

vs.

Respondent  
Citigroup Global Markets, Inc.

Hearing Site: Los Angeles, California

---

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 Damon D. Johnson (“Claimant”): Zachary Morse, Esq., HLBS Law, Westminster, Colorado.

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: June 1, 2021.  
Claimant signed the Submission Agreement: June 1, 2021.

Statement of Answer filed by Respondent on or about: July 22, 2021.  
Respondent did not sign the Submission Agreement.

**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:

1. Expungement of Occurrence Number 1089746 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 Number 1089746 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
3. Deletion of all Disclosure Reporting Pages accompanying Occurrence Number 1089746 in their entirety; and
4. Any and all other relief that the Arbitrator deems just and equitable.

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

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

Respondent did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and, having answered the claim and appeared at the hearing, is bound by the determination of the Arbitrator on all issues submitted.

On June 15, 2021, parties agreed to proceed with a single arbitrator in this matter.

On November 11, 2021, Claimant advised that the customer in Occurrence Number 1089746 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. On November 15, 2021, Claimant filed an Affidavit 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 on December 14, 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 participated in the expungement hearing and opposed the 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 1089746 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: Statement of Claim; Claimant's BrokerCheck® Report; Claimant's testimony; and the Customer's testimony.

### **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 1089746 from registration records maintained by the CRD for Claimant Damon D. Johnson (CRD Number 2513849) with the understanding that, pursuant to Notice to Members 04-16, Claimant Damon D. Johnson 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's claim of unsuitability with regard to her managed account (the "GPM Account") is clearly erroneous and false.

Claimant had a reasonable basis to believe that the GPM Account was suitable for the Customer, based on the reasonable diligence of Claimant and Respondent to ascertain the Customer's investor profile, as well as on the direct statements of the Customer, herself. The recommendation of the GPM Account was based on the Customer's investor profile and objectives.

The GPM Account was a diversified and well-balanced investment vehicle for the Customer's stated objectives of growth and income with a moderate risk tolerance. The suitability of an investment is determined at the time when an investment is made. No future event, such as a decline in value amid market turmoil, can or does retroactively render the investment unsuitable at the time when it was made.

Claimant performed his duties as a representative in an ethical and professional manner, exercised reasonable diligence in ascertaining suitability of the investment, and acted in the best interests in furtherance of the financial objectives of the Customer.

The Arbitrator noted that Respondent, after completing a thorough investigation, on August 22, 2002, denied the Customer's claim in Occurrence Number 1089746. The Arbitrator noted that, according to the Claimant's CRD records and testimony at the hearing, the Customer did not pursue her claim in arbitrator or in court.

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 = \$ 1,600.00

*\*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 = \$ 2,000.00  
Member Process Fee = \$ 3,850.00

**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 @ \$1,150.00/session = \$ 1,150.00  
Pre-Hearing Conference: September 20, 2021 1 session

One (1) hearing session on expungement request @ \$1,150.00/session = \$ 1,150.00  
Hearing: December 14, 2021 1 session

---

Total Hearing Session Fees = \$ 2,300.00

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**

Erik R. Siering

-

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**

***Erik R. Siering***

\_\_\_\_\_  
Erik R. Siering  
Sole Public Arbitrator

**12/17/2021**

\_\_\_\_\_  
Signature Date

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.

December 17, 2021

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