

**Coraggio v Galman**

2024 NY Slip Op 33772(U)

October 9, 2024

Supreme Court, New York County

Docket Number: Index No. 653517/2024

Judge: Anar Rathod Patel

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 45

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<p>MICHAEL ANDREW CORAGGIO,  JANNEY MONTGOMERY SCOTT LLC,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">- v -</p> <p>ARNOLD GALMAN, ELLIOT STONE,  FINANCIAL INDUSTRY REGULATORY  AUTHORITY, INC.,</p> <p style="text-align: center;">Respondents.</p>	<p><b>INDEX NO.</b>        <u>653517/2024</u></p> <p><b>MOTION</b></p> <p><b>DATE</b>                <u>07/11/2024</u></p> <p><b>MOTION SEQ.</b></p> <p><b>NO.</b>                    <u>001</u></p> <p><b>DECISION + ORDER ON</b>  <b>MOTION</b></p>
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**HON. ANAR RATHOD PATEL:**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 13, 15–24, were read on this Amended Verified Petition to Confirm an Arbitration Award.

This is a special proceeding, pursuant to CPLR Article 75, commenced by Petitioners Janney Montgomery Scott LLC (“Janney”) and Michael Andrew Coraggio (“Coraggio”) (collectively “Petitioners”), seeking an order and judgment confirming an arbitration award (“Award”) issued by a panel of three arbitrators in an arbitration proceeding (“Arbitration”) administered by the Financial Industry Regulatory Authority (“FINRA”).

**Relevant Factual and Procedural History**

The Award at issue arises out of a claim filed with FINRA by Respondent Arnold Galman and his trustee Elliot Stone, against Petitioners Coraggio and Janney. NYSCEF Doc. No. 16 (Claimants’ Statement of Claim). Petitioner Janney is a financial services firm headquartered in Pennsylvania, registered with the Securities and Exchange Commission and FINRA. NYSCEF Doc. No. 15 (Am. Pet.). Petitioner Coraggio is a financial advisor, also registered with FINRA, who has worked for Janney as a financial advisor and Executive Vice President since 2014 in Janney’s Manhattan branch. *Id.* at ¶ 3. Respondent Galman, through his trustee, Elliot Stone, held brokerage accounts with Janney. *Id.* at ¶¶ 4–5. Respondent FINRA, a Delaware corporation, is named as a respondent pursuant to FINRA Rule 2080, which requires that FINRA be a party in any court proceeding related to the expungement of customer dispute information. *See* FINRA Rule 2080(b).

On or about April 7, 2023, Respondent Galman and his trustee filed a statement of claim with FINRA captioned *Arnold Galman, Individually and Elliot Stone, as Trustee of the Galman Family Trust DTD 02/05/96 v. Janney Montgomery Scott LLC and Michael Andrew Coraggio*, FINRA Case No. 23-00894. NYSCEF Doc. No. 15 at ¶ 7. The claim alleged that Petitioners engaged in unsuitable and unauthorized trading strategies in Respondents’ accounts. NYSCEF

Doc. No. 16 at ¶¶ 1–3. The claim further alleged that these strategies amounted to negligence, gross negligence, fraud, and deceit and that Respondents lost \$4.6 million as a result. *Id.* at ¶¶ 4–5. Respondents sought \$4.6 million in compensatory damages and at least \$13.8 million in punitive damages. *Id.* at ¶ 6. Petitioners Coraggio and Janney denied the allegations in the statement of claim. NYSCEF Doc. No. 18 (Answer to Statement of Claim). Pursuant to FINRA rules, Respondents’ claim against Petitioners Janney and Coraggio became part of FINRA’s records in its Central Registration Depository (“CRD”), making the complaints against Petitioners available, among other places, on FINRA’s public-facing website. NYSCEF Doc. No. 15. at ¶ 10.

On the same day that Respondents Galman and Stone filed the statement of claim, they submitted a FINRA Arbitration Submission Agreement in which they agreed to abide by any award that FINRA might render in relation to their claim and that they would consent to submit to the jurisdiction of any court of competent jurisdiction which may properly enter judgment upon such award. *See* NYSCEF Doc. No. 17 (Claimants’ Submission Agreement).

FINRA Arbitrators Gerald H. Grayson, Edward R. Niederriter, and Lisa Jane Austein (“Panel”) were appointed by FINRA and accepted by all parties to arbitrate the claims at issue in the statement of claim. NYSCEF Doc. No. 15 at ¶ 9. From June 10 to June 18, 2024, the Panel conducted in-person arbitration hearings. *Id.* at ¶ 13. During these hearings, both parties presented evidence, delivered oral argument, and introduced sworn testimony. *Id.* On or about July 5, 2024, the Panel issued the Award at issue in the instant proceeding. NYSCEF Doc. No. 20 (Award).

The Panel unanimously decided that (1) all claims are denied in their entirety; and (2) all references to the claim brought by Respondents Galman and Stone shall be expunged from Petitioner Coraggio’s CRD. *See id.* at 3. The Panel’s reasoning was as follows:

Of the three bases for expungement under Rule 2080, it is the Panel’s decision that “The claim, allegation or information is false” is the basis for the Panel’s decision. Respondent Coraggio appeared in person at the hearing on this matter and his testimony, as well as the evidence in the form of exhibits, and an expert witness, called by Respondent Janney Montgomery Scott, that appeared, also corroborated the actions of Respondent Coraggio. In his testimony, Claimant stated that he sought advice from other brokers and friends in his investment decisions. Further, Claimant’s subsequent E\*TRADE® account was very similar to the portfolio he had with Respondent Coraggio. Claimant also approved the riskier investments in order to recoup losses incurred when he rashly pulled out of the market against Respondent Coraggio’s recommendation to ride out the market dip, which did recover. Further, the higher risk investments Claimant approved in order to increase earnings actually recouped most of his self-incurred loss so Respondent Coraggio then moved him out of those investments into more conservative investments. Claimant’s testimony was that he did not want to pay the fees for any investments and was angry that, despite his demands, Respondent Coraggio had no control over those fees. Therefore, the claims made by Claimant are false and he has suffered no harm by Respondent Coraggio. During the course of the hearing, it was demonstrated by the evidence that Respondent Coraggio met his obligations as an investment advisor for Claimant, Arnold Galman and the Galman Family Trust.

The Panel finds that the claim is false, and therefore, it should be expunged from Respondent Coraggio's BrokerCheck® Report and CRD records.

NYSCEF Doc. No. 20 at 3.

On July 11, 2024, Petitioners filed the petition before this Court, seeking confirmation of the Award. NYSCEF Doc. No. 1 (Pet.). On August 8, 2024, Petitioners filed an Amended Petition. NYSCEF Doc. No. 15. No response has been filed to the original or Amended Petitions, and no petitions have been made to vacate, modify, or correct the Award. *See id.*

### **Discussion**

Petitioners request that this Court (1) confirm the Award; and (2) direct that all references to FINRA Case No. 23-00894 be expunged from the CRD of Petitioner Michael Andrew Coraggio (CRD Number 4684084). NYSCEF Doc. No. 15.

#### *Confirmation of the Award*

Pursuant to CPLR § 7510, "The court shall confirm an award upon application of a party made within one year after its delivery to him, unless the award is vacated or modified upon a ground specified in section 7511." "The scope of judicial review of an arbitration proceeding is extremely limited." *Elul Diamonds Co. v. Z Kor Diamonds, Inc.*, 50 A.D.3d 293, 293 (1st Dept 2008). "An arbitration award must be upheld when the arbitrator offer[s] even a barely colorable justification for the outcome reached." *Wein & Malkin LLP v. Helmsley-Spear, Inc.*, 6 N.Y.3d 471, 479 (2006).

Upon a review of Petitioners' submissions, including the Award filed as Pet. Ex. E (NYSCEF Doc. No. 20), Petitioners have established that there is at least a colorable justification for the Award, and Respondents have not submitted any opposition, let alone any basis to reject the award under CPLR § 7511.

Accordingly, the Award, issued by the FINRA Panel on July 5, 2024, is confirmed in its entirety.

#### *Expungement of References*

Petitioners separately seek to direct the expungement of all references to FINRA Case No. 23-00894 from Petitioner Coraggio's CRD records. FINRA Rule 2080(a), states, in relevant part:

Members or associated persons seeking to expunge information from the CRD system arising from disputes with customers must obtain an order from a court of competent jurisdiction directing such expungement or confirming an arbitration award containing expungement relief.

Thus, before the CRD will execute an expungement directive issued as part of a FINRA arbitration award, the party seeking that expungement must obtain confirmation from a court of competent jurisdiction. See NYSCEF Doc. No. 20 at 3.

To issue an award containing expungement relief, an arbitration panel must find unanimously that one of the grounds enumerated in FINRA Rule 13805(9)(A) has been established. See FINRA Rule 13805(9). One such enumerated ground is that “the claim, allegation or information is false.” See FINRA Rule 13805(9)(A)(i)(c). Furthermore, the panel must indicate in the arbitration award which of the grounds for expungement serve as the basis for its expungement award. FINRA Rule 13805(9)(B). Lastly, the panel may not give evidentiary weight to a customer’s or authorized representative’s decision not to attend or participate in an expungement hearing when making a determination as to whether expungement is appropriate. See FINRA Rule 13805(9)(C).


FINRA Arbitrators Grayson, Niederriter, and Austein unanimously decided that all references to FINRA Case No. 23-00894 in Petitioner Coraggio’s CRD shall be expunged on the basis that “the claim, allegation or information is false.” See NYSCEF Doc. No. 20 at 3. Finally, the FINRA Arbitrators do not appear to have given any evidentiary weight to either party’s decision to attend or participate in the hearing. See id.

Accordingly, it is

**ORDERED** that the Petition is GRANTED, and the award rendered in favor of Petitioners and against Respondents is confirmed; and it is further

**ORDERED** that all references to the FINRA arbitration captioned *Arnold Galman, Individually and Elliot Stone, as Trustee of the Galman Family Trust DTD 02/05/96 v. Janney Montgomery Scott LLC and Michael Andrew Coraggio*, FINRA Case No. 23-00894, shall be expunged from the FINRA CRD of Michael Andrew Coraggio (CRD Number 4684084); and it is further

**ORDERED** that the Clerk of the Court mark this case as disposed.

<u>October 9, 2024</u> DATE					 ANAR RATHOD PATEL, A.J.S.C.
CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/> DENIED	GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE