

AWARD
FINRA Office of DISPUTE RESOLUTION

CASE #: [REDACTED]
[REDACTED] (Claimant) vs. TD Ameritrade, Inc. (Respondent)

REPRESENTATION OF PARTIES:

For Claimant [REDACTED]: Owen Harnett, Esq., AdvisorLaw LLC, Broomfield, Colorado.

For Respondent TD Ameritrade, Inc.: Marcia A. Washkuhn, Esq. Kutak Rock LLP, Omaha, Nebraska.

NATURE OF DISPUTE: Associated Person vs. Member

Statement of Claim filed on or about: October 19, 2016.

CASE SUMMARY: Claimant asserted the following cause of action: expungement.

RELIEF REQUESTED: In the Statement of Claim, Claimant requested compensatory damages in the amount of \$1.00, expungement of his CRD records, and any and all other relief that the Arbitrator deems just and equitable.

AWARD: The undersigned Arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Claimant's request for expungement of his CRD records is granted.

The Arbitrator recommends the expungement of all references to occurrence [REDACTED] from registration records maintained by the Central Registration Depository ("CRD"), for Claimant [REDACTED], with the understanding that, pursuant to Notice to Members 04-16, Claimant [REDACTED] 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; and the claim, allegation, or information is false.

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

The evidence presented at the expungement hearing showed that Claimant did not make any unauthorized or inappropriate trades in the in the customer's account. This was noted on Claimant's Form U4 filed by Respondent. The testimony shows that Claimant conducted an appropriate know the customer check on a recorded line before any trades were made and the trades, also on a recorded line, were discussed with and were appropriate for the customer. A settlement was made with the customer shortly after the complaint was received by Respondent and no arbitration or other proceeding was commenced. Claimant was not part of nor made aware of the settlement by Respondent with the customer. Claimant became aware of the settlement agreement when the matter was added to his Form U4.

It appears that Respondent settled with the customer because it felt it was cheaper to settle than to defend an arbitration. In the above captioned matter, Claimant and Respondent entered into an agreement whereby Respondent agreed not to oppose the expungement (which is consistent with their notation on Claimant's Form U4); the parties agreed not to seek any monetary relief from one another; and Claimant agreed to pay all of the fees for the expungement proceeding. The agreement was read into the hearing record and is being filed with FINRA. Based upon the foregoing, expungement is granted under Rule 2080 on the grounds that the claim by the customer is factually impossible and clearly erroneous. In addition the claim is false.

2. All other relief requests are denied.
3. FINRA shall retain the \$50.00 filing fee that the Claimant deposited previously.

OTHER FEES: Respondent has paid to FINRA Dispute Resolution the \$150.00 Member Surcharge previously invoiced.

One (1) Hearing session on expungement request @ \$50.00	= \$	50.00
Hearing Date: May 2, 2017	1 session	
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Total Hearing Session Fees	= \$	50.00

The Arbitrator has assessed the \$50.00 expungement hearing session fee to Claimant.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

OTHER ISSUES: The Arbitrator acknowledges that he has read the pleadings and other materials filed by the parties.

The parties submitted an agreement to FINRA dated March 20, 2017. Claimant agreed that he will not pursue any claims or damages against Respondent in connection with this arbitration proceeding.

The Arbitrator conducted a recorded telephonic expungement hearing on May 2, 2017 so that the parties could present oral argument on Claimant's request for expungement of his CRD record.

The customer in the underlying claim did not participate in the expungement hearing. The Arbitrator determined that the customer received a copy of the Statement of Claim and received due notice of the expungement hearing and that the hearing would proceed without him present. The settlement agreement between Respondent and the customer was not conditioned on the customer not opposing a request for expungement. The customer did not take any position regarding Claimant's expungement request. Respondent did not contest Claimant's request for expungement.

The Arbitrator reviewed the BrokerCheck Report for Claimant.

Claimant did not previously file a claim requesting expungement of the same disclosure from the CRD.

In recommending expungement, the Arbitrator relied upon the pleadings; the testimony of the Claimant; Claimant's BrokerCheck Report; the underlying settlement agreement between the Respondent and the customer; the agreement between the Claimant and Respondent; and Respondent's notes in the Form U4 filing.

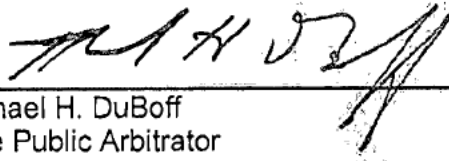
ARBITRATOR

Michael H. DuBoff

Sole Public Arbitrator

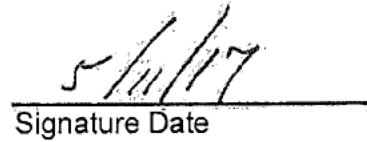
I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Arbitrator's Signature



A handwritten signature in black ink, appearing to read 'M H DuBoff', written over a horizontal line.

Michael H. DuBoff
Sole Public Arbitrator



A handwritten date '5/11/17' written in black ink over a horizontal line.

Signature Date

May 11, 2017

Date of Service (For FINRA-ODR office use only)