

AWARD

FINRA Office of DISPUTE RESOLUTION

CASE #: [REDACTED]

[REDACTED] (Claimant) vs. HBW Securities LLC (Respondent)

REPRESENTATION OF PARTIES:

For Claimant [REDACTED]: Dochter Kennedy, Esq., AdvisorLaw LLC, Broomfield, Colorado.

For Respondent HBW Securities LLC: Louise Cowen, Esq., HBW Securities LLC, Simi Valley, California.

NATURE OF DISPUTE: Associated Person vs. Member

Statement of Claim filed on or about: November 1, 2016.

CASE SUMMARY: Claimant asserted a claim seeking expungement of customer dispute occurrence numbers [REDACTED], [REDACTED] and [REDACTED] ("Underlying Claims") from his Central Registration Depository ("CRD") records.

RELIEF REQUESTED:

In the Statement of Claim, Claimant requested:

1. Expungement of occurrence numbers [REDACTED] and [REDACTED] from his CRD record pursuant to FINRA Rule 2080(b)(1)(A) finding the claim, allegation or information is factually impossible or clearly erroneous;
 2. Expungement of occurrence number [REDACTED] from his CRD record pursuant to FINRA Rule 2080(b)(1)(B) finding the Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds;
 3. Expungement of occurrence numbers [REDACTED] and [REDACTED] from his CRD record pursuant to FINRA Rule 2080(b)(1)(C) finding the claim, allegation or information is false.
 4. An award of damages in the amount of \$1.00 for Respondent's part in contributing to Claimant's injury; and
 5. Any and all other relief that the Arbitrator deems just and equitable.
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AWARD: The undersigned Arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The Arbitrator recommends the expungement of all references to the Underlying Claims, namely occurrence numbers [REDACTED], [REDACTED] and [REDACTED] from Claimant [REDACTED] (CRD# [REDACTED]) registration records maintained by the CRD, 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 of Arbitration Procedure (“Code”), the Arbitrator has made the following Rule 2080 affirmative findings of fact for each of the occurrence numbers:

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 finding based on the following reasons:

The claims from each of the underlying customers are clearly erroneous and false. The underlying customers referred to in the Statement of Claim were fully advised prior to their investment and chose on their own, Midland variable annuity in each case. The investment fit the risk tolerances in each and was suitable per the Respondent’s suitability program. The Underlying Claims were investigated by Claimant’s employer and Midland, and found to be without merit, with the investigations closed – no action taken. The time periods involved were periods of political and market turmoil. No formal FINRA claims were filed. No settlements or payments were made. The Underlying Claims in the Statement of Claim were the only customer disclosures on the BrokerCheck® Report in Claimant’s 31 years as a broker. The disclosures noted on Claimant’s BrokerCheck® Report were consistent with the descriptions in the Statement of Claim, which was in much more detail.

2. Any and all claims for relief not specifically addressed herein are denied.

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

On January 9, 2017, the parties submitted a written stipulation in which Respondent did not object to the expungement request and stipulated to not appear in the arbitration process.

On April 4, 2017, Claimant provided notice that the underlying customers had been served with the Statement of Claim, Initial Pre-Hearing Conference Order, and Case Information Sheet including the date of the expungement hearing.

On April 12, 2017 and June 12, 2017, Mr. and Ms. B, underlying customers for occurrence number [REDACTED], filed a response and objection to Claimant’s expungement request. The remaining customers in the Underlying Claims did not submit any responses to the expungement request.

The Arbitrator conducted a recorded telephonic hearing on June 20, 2017 so the parties could present oral argument and evidence on Claimant's request for expungement. Underlying customer Mr. B attended the expungement hearing. Underlying customer Mr. B had previously contested the expungement request in writing; however, during the hearing, he did not contest the testimony provided by Claimant in connection to the handling of his account. The remaining customers in the Underlying Claims did not appear at the expungement hearing. Respondent did not appear at the expungement hearing pursuant to the parties' stipulation.

During the expungement hearing, the Arbitrator inquired if Claimant's counsel provided a copy of the Statement of Claim to the customers in the Underlying Claims. Claimant's counsel responded in the affirmative. Based on this testimony and on the notice of service provided by Claimant on April 4, 2017, the Arbitrator determined that the underlying customers had been properly served with the Statement of Claim.

During the expungement hearing, Claimant waived the request for \$1.00 in damages.

The Arbitrator noted that Claimant did not previously file a claim requesting expungement of the Underlying Claims.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: BrokerCheck[®] Report; the Statement of Claim; 500 pages of exhibits; detailed testimony by Claimant on each underlying customer including risk tolerances, suitability and the like; and Mr. B's testimony that Claimant's testimony was accurate.

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

FINRA Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing Fee	= \$ 50.00
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*The filing fee is made up of a non-refundable and a refundable portion.

Hearing Session Fees and Assessment

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$50.00/session	= \$50.00
Pre-hearing conference: March 27, 2017 1 session	

One (1) Hearing session on expungement request @ \$50.00/session	= \$50.00
Hearing Date: June 20, 2017 1 session	

Total Hearing Session Fees	= \$100.00
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The Arbitrator has assessed \$100.00 of the hearing session fees to Claimant.

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

ARBITRATOR

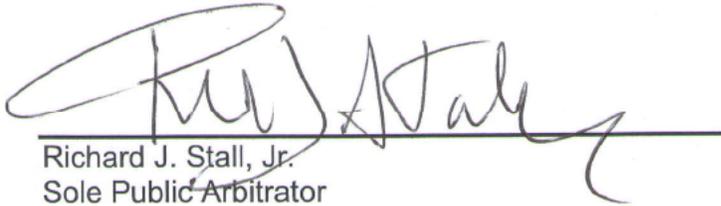
Richard J. Stall, Jr.

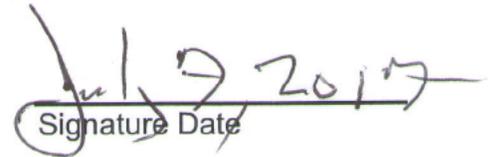
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Sole Public Arbitrator

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


Richard J. Stall, Jr.
Sole Public Arbitrator


Signature Date

July 10, 2017
Date of Service (For FINRA-ODR office use only)