

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
[REDACTED]

Case Number [REDACTED]

vs.

Respondent
Cambridge Investment Research, Inc.

Hearing Site: Kansas City, Missouri

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [REDACTED] ("Claimant"): Armin Sarabi, Esq., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent Cambridge Investment Research, Inc. ("Respondent"): Andrea Shafer, VP, Cambridge Investment Research, Inc., Fairfield, Iowa.

CASE INFORMATION

Statement of Claim filed on or about: November 29, 2017.
Claimant signed the Submission Agreement: November 29, 2017.

Statement of Answer filed on or about: January 3, 2018.
Respondent signed the Submission Agreement: January 4, 2018.

CASE SUMMARY

Claimant asserted a claim seeking expungement of an underlying customer complaint ("Underlying Complaint") reflected as Occurrence Number [REDACTED] from his registration records maintained by the Central Registration Depository ("CRD").

Respondent did not oppose Claimant's request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

Compensatory Damages:	\$1.00
Other Monetary Relief:	Unspecified
Other Non-Monetary Relief:	Expungement

In the Statement of Answer, Respondent requested Claimant's request for damages be denied and any and all forum fees be assessed against Claimant.

At the hearing, Claimant dismissed his request for all monetary damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

By the Scheduling Order dated March 12, 2018, the Arbitrator ordered Claimant to notify the customers of the Underlying Complaint ("Customers M.R. and V.R.") of the proceedings in writing and provide proof of such notice to FINRA on or before March 26, 2018. On or about March 19, 2018, Claimant filed a Service Letter to Customers M.R. and V.R. On or about March 21, 2018, Claimant filed a Signed Affidavit of Service to Customers M.R. and V.R.

The Arbitrator conducted a recorded telephonic hearing on June 28, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and did not contest the request for expungement.

The Arbitrator found that Customers M.R. and V.R. were notified of the hearing and elected not to participate.

The Arbitrator reviewed Claimant's BrokerCheck® Report and the settlement documents, considered the amount of payments made to any party, and considered other relevant terms and conditions of the settlement. The Arbitrator found that Respondent paid Customers M.R. and V.R. to cover a tax penalty that they incurred due to an administrative error. The funds for settlement were deducted from Claimant's commission statement. The Arbitrator found that the settlement amount was considered nominal and no other terms were deemed relevant. The Arbitrator noted that the settlement was not conditioned on Customers M.R. and V.R. not opposing the request for expungement.

The Arbitrator noted that Claimant did not previously file a claim requesting expungement of the same disclosure in the CRD.

In recommending expungement the Arbitrator relied upon the following documentary or other evidence: BrokerCheck® Report (Claimant's exhibit 1), Claimant's sworn testimony, Customer Complaint Letter dated January 29, 2013 (Claimant's exhibit 2), and Settlement Agreement (Claimant's exhibit 4).

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

The Arbitrator recommends the expungement of all references to Occurrence Number [REDACTED] from registration records maintained by the CRD, for Claimant (CRD [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, Claimant 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 (the "Code"), the Arbitrator has made the following Rule 2080 affirmative finding of fact:

- The claim, allegation, or information is factually impossible or clearly erroneous.

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

The underlying facts are not disputed: Customers M.R. and V.R. opened an IRA account with Claimant and Respondent and indicated a desire to make early withdrawals. In order to minimize the mandatory penalty associated with such withdrawals, Claimant recommended (and Customers M.R. and V.R. agreed) to open two accounts of unequal value, with the withdrawals to be made from the smaller account. Proper instructions to open the accounts were given to Claimant's office staff, but they were not followed. Only one account was opened and it contained Customers M.R. and V.R.'s entire contribution. This error was discovered when Customers M.R. and V.R. first sought an early withdrawal. The settlement amount equaled the amount of tax penalty incurred. No underlying investment was affected and no improper sales or investment practice was ever suggested.

The claim is found to be clearly erroneous for the following reasons:

1. Customers M.R. and V.R. complained that Claimant did not follow their instructions. Such conduct is addressed by FINRA Rule 2090 (the "Rule"), which states in pertinent part:

Every member shall use reasonable diligence, in regard to the opening and maintenance of every account....

The Rule covers Claimant's conduct in opening the account and, further, the use of the word "reasonable" suggests that not every administrative error violates the Rule. Claimant testified (from contemporaneous notes) that he followed an established procedure that was used successfully in many similar situations. For some reason, one of his employees did not. I find that Claimant himself acted with reasonable due diligence in administering the account, and, further, that his reliance on an employee to carry out his instructions was also reasonable. Even if Claimant's

employee's inaction is attributed to him, I further find that the failure to open a second account was not an "unreasonable" practice as contemplated by the Rule, under the facts and circumstances of this case.

2. The BrokerCheck® Report states that matters involving alleged losses of less than \$5,000.00 are not included in the record. The amount involved is clearly less than \$5,000.00. At the time Respondent made the entry in question, it reasonably believed it could not make a determination regarding the total amount involved and so stated. This was reiterated at the hearing by Respondent's counsel. As such, and with the benefit of hindsight, the entry should not be there in the first place and should not be at issue.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Office of 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.*

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 events giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge	= \$150.00
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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, 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 12, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: June 28, 2018	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

Jonathan B. Gilbert

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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

/s/ Jonathan B. Gilbert

Jonathan B. Gilbert
Sole Public Arbitrator

July 18, 2018

Signature Date

July 19, 2018

Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATOR

Jonathan B. Gilbert

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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



Jonathan B. Gilbert
Sole Public Arbitrator

July 18, 2018

Signature Date

Date of Service (For FINRA Office of Dispute Resolution office use only)