

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

██████████

Case Number: ██████████

vs.

Respondent

Chase Investment Services Corp.

Hearing Site: Los Angeles, California

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ (“Claimant”): Dochter Kennedy, MBA, J.D., AdvisorLaw LLC, Broomfield, Colorado and Armin Sarabi, Esq., HLBS Law, Westminster, Colorado.

For Respondent Chase Investment Services Corp. (“Respondent”): Trevor J. Hardy, Esq., Ulmer & Berne LLP, Cleveland, Ohio.

CASE INFORMATION

Statement of Claim filed on or about: August 29, 2017.

Amended Statement of Claim filed on or about: September 28, 2017.

Second Amended Statement of Claim filed on: April 4, 2018.

Claimant signed the Submission Agreement: August 29, 2017.

Statement of Answer filed by Respondent on or about: November 13, 2017.

Statement of Answer to the Second Amended Statement of Claim filed by Respondent on or about: May 22, 2018.

Respondent signed the Submission Agreement: November 9, 2017.

CASE SUMMARY

Claimant asserted a claim seeking expungement of two customer complaints, occurrence numbers ██████████ and ██████████ (“Underlying Complaints”) from his Central Registration Depository (“CRD”) records. Claimant also alleged that disclosure of the Underlying Complaints on his CRD record is defamatory and harms his reputation.

In the Amended Statement of Claim, Claimant withdrew his request for expungement of occurrence number ██████████

In the Second Amended Statement of Claim, Claimant re-added his request for expungement of occurrence number [REDACTED]

Unless specifically admitted in the Statements of Answer, Respondent denied the allegations of the defamation made in the Amended and Second Amended Statements of Claim and asserted various affirmative defenses. Respondent also advised that it took no position as to Claimant's expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Complaints from his CRD record pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous;
2. Expungement of the Underlying Complaints from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false.
3. Damages in the amount of \$1.00 from Respondent; and
4. Any and all other relief that the Arbitrator deems just and equitable.

In the Amended Statement of Claim, Claimant requested the same relief but only in respect of Occurrence Number [REDACTED]

In the Statement of Answer, Respondent requested:

1. Claimant's defamation claim against Respondent be denied;
2. All forum fees in this matter be assessed against Claimant;
3. Any other relief that the Arbitrator deems just and proper.

In the Second Amended Statement of Claim, Claimant requested the same relief as in the first Statement of Claim.

In the Statement of Answer to the Second Amended Statement of Claim, Respondent requested the same relief as set forth in the Statement of Answer.

OTHER ISSUES CONSIDERED AND DECIDED

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

On January 3, 2018, Claimant provided notice that the Amended Statement of Claim and notice of the expungement hearing set for April 4, 2018 was served on the customer in occurrence number [REDACTED] ("Mr. LC").

On January 8, 2018, Claimant filed an Affidavit of Service signed by Claimant's counsel advising that Mr. LC was served with Amended Statement of Claim.

On March 28, 2018, Claimant filed a Motion to Amend the Statement of Claim. On the same date, Respondent filed an opposition to the motion. On April 2, 2018, Claimant filed

a reply in support of his motion. On April 4, 2018, the Arbitrator held a pre-hearing conference and heard oral argument on Claimant's Motion to Amend the Statement of Claim. By order of the same date, the Arbitrator granted Claimant's motion and the Second Amended Statement of Claim became part of the record.

On July 18, 2018, Claimant provided notice that the Second Amended Statement of Claim and notice of the expungement hearing set for August 6, 2018 was served on Mr. LC and the customer in occurrence number [REDACTED] ("Ms. MC"). Hereinafter, Mr. LC and Ms. MC are collectively referred to as the "Customers."

On August 3, 2018, Claimant submitted a letter dated February 8, 2018 from Ms. MC in which she opposed Claimant's request for expungement of occurrence number [REDACTED].

The Arbitrator conducted a recorded telephonic hearing on August 6, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and took no position as to Claimant's request for expungement. Ms. MC participated in the expungement hearing and contested the request for expungement. Mr. LC did not participate at the expungement hearing. The Arbitrator found that Mr. LC had notice of the expungement hearing.

At the expungement hearing, Claimant withdrew his request for \$1.00 of damages and the allegations of defamation.

The Arbitrator reviewed the BrokerCheck® Report for Claimant. The Arbitrator found that the Underlying Complaints were not settled and therefore there were no settlement documents for him to review.

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

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the account opening documents; financial statements from Mr. LC's account; the testimony of Claimant, and the testimony of Ms. MC.

The parties present at the hearing have agreed that a handwritten, signed Award may be entered.

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:

1. The Arbitrator recommends the expungement of all references to the Underlying Complaints, occurrence numbers [REDACTED] and [REDACTED] the records maintained by the CRD, for Claimant [REDACTED] (CRD# [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 of Arbitration Procedure (“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 Arbitrator has made the above Rule 2080 findings based on the following reasons:

Occurrence Number ██████ (Ms. MC)

The complaint was rejected by Respondent and not pursued by Ms. MC. Claimant strictly followed firm and FINRA protocols in establishing these accounts. Ms. MC signed multiple documents expressing understanding and comprehension of the account circumstances.

Ms. MC’s testimony at the expungement hearing in fact confirmed that she wanted Claimant to exchange her existing annuity for a new annuity of the same type because of the gains in the original. The guaranteed minimum payments in case of a downturn in the market were greatly in her favor.

Occurrence Number ██████ (Mr. LC)

The complaint was rejected by Respondent and not pursued by Mr. LC. Claimant strictly followed firm and FINRA protocols in establishing these accounts. Mr. LC signed multiple documents expressing understanding and comprehension of the account circumstances. In the complaint, Mr. LC’s alleged that Claimant guaranteed that his investments would not lose money, however, the evidence provided demonstrated that Mr. LC understood the risks related to the accounts.

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 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(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 = \$ 150.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

April 4, 2018, postponement per the April 2, 2018 order = \$50.00

Total Postponements Fees = \$50.00

The Arbitrator has assessed \$50.00 of the postponement fees to Claimant.

Last Minute Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within ten calendar days before the start of a scheduled hearing session:

April 4, 2018, postponement per the April 2, 2018 order = \$600.00

Total Last Minute Cancellation Fees = \$600.00

The Arbitrator has assessed \$600.00 of the last minute cancellation fees to Claimant.

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(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with a single arbitrator @ \$50.00/session = \$100.00

Pre-hearing conferences: December 19, 2017 1 session
April 4, 2018 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$50.00

Hearing Date: August 6, 2018 1 session

Total Hearing Session Fees = \$150.00

The Arbitrator has assessed \$150.00 of the hearing session fees to Claimant.

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

ARBITRATOR

Robert F. Saint-Aubin

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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



Robert F. Saint-Aubin
Sole Public Arbitrator



Signature Date

August 15, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)