

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Securities America, Inc.

Hearing Site: Dallas, Texas

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ (“Claimant”): Dochter Kennedy, Esq., AdvisorLaw, LLC, Broomfield, Colorado and Owen Harnett, Esq., HLSB Law, Broomfield, Colorado.

For Respondent Securities America, Inc. (“Respondent”): Tyler Schubauer, Esq., Securities America, Inc., Lavista, Nebraska.

CASE INFORMATION

Statement of Claim filed on or about: February 21, 2018.

Claimant signed the Submission Agreement: February 21, 2018.

Statement of Answer filed by Respondents on or about: March 6, 2018.

Respondent the Submission Agreement: March 6, 2018.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of customer complaints related to Occurrence Numbers ██████████ and ██████████, from his registration records maintained by the Central Registration Depository (“CRD”).

In the Statement of Answer, Respondent did not oppose the request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers ██████████ and ██████████ from his CRD record pursuant to FINRA Rule 2080(b)(1)(A) as the claim, allegation, or information is factually impossible or clearly erroneous; expungement of Occurrence Number ██████████ from his CRD record pursuant to FINRA Rule 2080(b)(1)(B), as the Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; expungement of Occurrence Numbers ██████████ and ██████████ from his CRD record

pursuant to FINRA Rule 2080(b)(1)(C) as the claim, allegation, or information is false,. Claimant also requested compensatory damages in the amount of \$1.00, and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested Claimant's request for an award of damages from Respondent be summarily denied.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about May 31, 2018, the Director of FINRA Office of Dispute Resolution determined Claimant's request for expungement of Occurrence Number [REDACTED] was not eligible for arbitration and denied the forum pursuant to Rule 13303(a) of the Code of Arbitration Procedure ("Code").

On or about June 6, 2018, in compliance with the Initial Pre-Hearing Conference Order, Claimant filed a copy of the letter sent to the customers for Occurrence Number [REDACTED] (the "Service Letter"), providing them with the Statement of Claim, notice of the expungement hearing, including the date and time, and the option to participate in the expungement hearing. On or about August 3, 2018, Claimant filed Proof of Service of the Service Letter.

The Arbitrator conducted a recorded telephonic hearing on August 13, 2018, for the presentation of testimony and evidence on Claimant's request for expungement of Occurrence Number [REDACTED]. Respondent participated in the expungement hearing and did not contest the request for expungement. The underlying customers did not participate in the expungement hearing.

The Arbitrator reviewed the BrokerCheck® Report for Claimant. The Arbitrator found that there was no settlement for Occurrence Number [REDACTED].

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

In recommending expungement for Occurrence Number [REDACTED], the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony, the letter from the underlying customers to Respondent (Exhibit 3 of the Statement of Claim), Respondent's reply letter to the underlying customers (Exhibit 2 of the Statement of Claim), and Claimant's BrokerCheck® Report.

On record at the hearing, Claimant withdrew his request for \$1.00 in compensatory damages.

AWARD

After considering the pleadings, the testimony, and the 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 Occurrence Number [REDACTED] from registration 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, the Arbitrator has made the following Rule 2080 affirmative findings of fact:

- The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds

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

The Claimant made no misrepresentations to the underlying customers. The underlying customers, who originally complained about another registered broker, never had a hearing held. A copy of the customers' letter and a copy of the response from Securities America were submitted. Mr. [REDACTED] was not involved in either. The broker statement was submitted and showed the complaint letter was about another registered broker and did not name Mr. [REDACTED]

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
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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(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: May 31, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: August 13, 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.

