

**Award**  
**FINRA Office of Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant

██████████

Case Number: ██████████

vs.

Respondent

J.P. Turner & Company, L.L.C.

Hearing Site: New York, New York

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████: Michael O’Gara, Esq., and Dochter Kennedy, Esq.,  
AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent J.P. Turner & Company, L.L.C.: Christina Vourakis, Esq., Cetera  
Financial Group, El Segundo, California.

**CASE INFORMATION**

Statement of Claim filed on or about: March 20, 2018.  
Claimant signed the Submission Agreement: March 20, 2018.

Statement of Answer filed by Respondent on or about: May 14, 2018.  
Respondent signed the Submission Agreement: May 11, 2018.

**CASE SUMMARY**

Claimant asserted the following cause of action: expungement of his CRD records.

Respondent did not oppose the expungement request.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of occurrence numbers  
██████████, and ██████████, compensatory damages in the amount of \$1.00, and  
any and all relief that the Arbitrator deems just and equitable.

In the Statement of Answer Respondent requested Claimant’s request for  
compensatory damages be denied, a statement from the Arbitrator on the issue of  
whether to order recommending expungement, and order all forum fees and costs  
against Claimants.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

Respondent did not appear at the evidentiary hearing. Upon review of the file and the representations made on behalf of the Claimant, the Arbitrator determined that Respondent has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the Code. On or about July 3, 2018, the parties entered into a Joint Stipulation executed by the Chair on July 12, 2018 stating that Respondent would not be required to appear at the expungement hearing.

The Arbitrator conducted a recorded telephonic hearing on September 18, 2018 so the parties could present oral argument and evidence on [REDACTED] request for expungement.

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

The Arbitrator determined that the customers received due notice of the expungement hearing.

By letter dated September 6, 2018, Claimant notified the Arbitrator he was unable to locate the Settlement Agreement for occurrence number [REDACTED]. After due consideration, the Arbitrator determined to proceed with Claimant's expungement request since Claimant was not the broker of record.

The Arbitrator reviewed the BrokerCheck® Report for [REDACTED] and the settlement documents related to occurrence numbers [REDACTED] and [REDACTED], considered the amount of payments made to the customers, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements related to occurrence numbers [REDACTED] and [REDACTED] were not conditioned on the customers not opposing the request for expungement. The Arbitrator also noted that regarding occurrence number [REDACTED] did not contribute to the settlement amount.

The Arbitrator noted that [REDACTED] 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: original pleadings of the customer arbitration claims, new account forms, and exhibits.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or 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. Claimant's claim for compensatory damages is denied in its entirety.
2. Claimant's request for expungement of occurrence number [REDACTED] is denied in its entirety. The Arbitrator denied the request on the basis that Claimant failed to provide adequate proof to satisfy the requirements of FINRA Rule 2080.
3. The Arbitrator recommends the expungement of all references to occurrence number [REDACTED] from registration records maintained by the Central Registration Depository ("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 claim, allegation, or information is factually impossible or clearly erroneous; and 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 testimony of [REDACTED] and the documents submitted established that [REDACTED] was not the registered representative for that customer's account and did not place any transactions for the customer in his account, and only provided telephone coverage for the broker of record.

4. The Arbitrator recommends the expungement of all references to occurrence number [REDACTED] from registration records maintained by the Central Registration Depository ("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 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 testimony and evidence presented by [REDACTED] demonstrated that the account had minimal trades of minimal value that did not establish a pattern of unsuitability or negligence in the handling of the account. The matter was settled by [REDACTED] former firm without any contribution by him. It was clear by the evidence presented that the primary cause of the loss sustained by the customer was his failure to cover a margin call rather than from any other actions or omissions from [REDACTED].

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

### **FEES**

Pursuant to the Code of Arbitration Procedure, 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 event giving rise to the dispute. Accordingly, as a party, J.P. Turner & Company, L.L.C is assessed the following:

Member Surcharge	= \$ 150.00
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**ARBITRATOR**

Richard W. Vallario

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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**



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Richard W. Vallario  
Sole Public Arbitrator

10/10/2018

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Signature Date

October 11, 2018

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