



### **CASE SUMMARY**

Claimant asserted the following cause of action: expungement.

Unless specifically admitted in the Statement of Answer and the Statement of Answer to the Amended Statement of Claim, Respondent J.P. Morgan denied the allegations made in the Statement of Claim and Amended Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in the Statement of Answer, Respondent Pershing LLC denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of occurrence numbers [REDACTED] and [REDACTED] from his CRD records; compensatory damages in the amount of \$1.00; and any and all other relief that the Arbitrator deems just and appropriate.

In the Amended Statement of Claim, Claimant requested expungement of occurrence number [REDACTED] from his CRD records; compensatory damages in the amount of \$1.00; and any and all other relief that the Arbitrator deems just and appropriate.

In the Statement of Answer and Statement of Answer to the Amended Statement of Claim, Respondent J.P. Morgan asserted that Claimant's claim as it relates to J.P. Morgan is ineligible for arbitration.

In the Statement of Answer, Respondent Pershing LLC takes no position with regard to the merits of Claimant's request for relief and objects to Claimant's request for compensatory damages.

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

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

By correspondence dated June 5, 2018, Claimant filed a Motion to Amend to the Statement of Claim to remove Respondent Pershing LLC and the expungement request of occurrence number [REDACTED] from the pleading. By Order dated June 27, 2018, the Arbitrator granted Claimant's Motion.

The Arbitrator conducted a recorded telephonic hearing on October 15, 2018 so the parties could present oral argument and evidence on Claimant [REDACTED] request for expungement.

Claimant provided the FINRA Office of Dispute Resolution with proof that he served the customer in the underlying complaint (occurrence number [REDACTED]) with notice of his expungement request and notice of the customer's right to participate and testify at the expungement hearing. The customer did not participate in the expungement hearing and did not contest the request for expungement.

Claimant was unable to locate the Settlement Agreement in occurrence number [REDACTED]. The settlement occurred in 1991 and Respondent J.P. Morgan made a good faith effort to locate the terms of the settlement but due to the length of time no documents could be found. The settlement was for \$4,000.00 and the Claimant did not contribute to the settlement.

At the hearing, Claimant withdrew his request for compensatory damages.

The Arbitrator reviewed the BrokerCheck® Report for [REDACTED]

The Arbitrator noted that Claimant [REDACTED] did not previously file a claim requesting expungement of occurrence number [REDACTED].

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, party submissions, Claimant's BrokerCheck® Report, and Claimant's testimony.

### **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 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 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 customer alleged he was overcharged on his purchase of zero coupon bonds. The documents entered into the record and the clear and convincing testimony of Claimant showed that the client was overcharged as a result of the pricing on the part of the trading desk and not by Claimant. Claimant was not involved in the pricing of the zero coupon bond. The price was set without any knowledge of the Claimant and Claimant was not charged with any part of the \$4,000.00 settlement in this matter. Additionally, the settlement had no admission of wrongdoing on behalf of Respondent J.P. Morgan's successor Bear Sterns & Co and it was J.P. Morgan's position that no overcharge occurred. Testimony showed that Claimant performed his duties in a responsible manner and the customer continued to use the services of the Claimant on other purchases after the dispute dated July 6, 1999. The zero coupon bonds were priced by the trading desk and not Claimant therefore this meets FINRA Rule 2080 in that he was not involved in the alleged overpricing therefore the allegation is false, clearly erroneous, and factually impossible. There is no regulatory or public protection interest in allowing this false and misleading allegation to remain on Claimant's record.

2. 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
--------------------------	------------

*\*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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as parties, Respondents J.P. Morgan Securities LLC and Pershing LLC are each assessed the following:

Member Surcharge	= \$ 150.00
------------------	-------------



**ARBITRATOR**

Linda J. Baer

-

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**

/Linda J Baer/ljb

Linda J. Baer  
Sole Public Arbitrator

October 18, 2018

Signature Date

**October 19, 2018**

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