

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

Case Number:

vs.

Respondent

Hearing Site: Newark, New Jersey

SII Investments, Inc.

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [REDACTED] Harris Freedman, Esq., AdvisorLaw, LLC,
Broomfield, Colorado.

For Respondent SII Investments, Inc ("SII"): Scott R. Forbush, Esq., Jackson National
Life Insurance Company, Lansing, Michigan.

CASE INFORMATION

Statement of Claim filed on or about: January 12, 2018.

[REDACTED] signed the Submission Agreement: January 12, 2018.

Statement of Answer filed by Respondent on or about: February 12, 2018.

SII Investments, Inc. signed the Submission Agreement: January 23, 2018.

CASE SUMMARY

Claimant asserted the following cause of action: expungement.

Respondent takes no position on Claimant's claims.

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 equitable.

In the Statement of Answer, Respondent takes no position on the requested relief.

OTHER ISSUES CONSIDERED AND DECIDED

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

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

The Arbitrator conducted recorded telephonic hearings on November 27 and December 18, 2018 so the parties could present oral argument and evidence on [REDACTED] [REDACTED] request for expungement.

At the expungement hearing, Claimant withdrew his request for \$1.00 in compensatory damages.

Respondent did not participate in the expungement hearing and did not contest Claimant's request for expungement. In its Statement of Answer, Respondent requested that it not be required to participate in the expungement hearing. Claimant consented to Respondent's request.

The Arbitrator reviewed the BrokerCheck® Report for [REDACTED]

The Settlement Agreement related to occurrence number [REDACTED] was not available due to the age of the settlement. The Arbitrator was unable to confirm whether or not the settlement was conditioned on the customer not opposing the request for expungement. Although the Settlement Agreement related to occurrence number [REDACTED] was not available, and Claimant paid the full settlement amount, the Arbitrator granted expungement based on the circumstances of the matter described in the award section below.

The Settlement Agreement related to occurrence number [REDACTED] was not available due to the age of the settlement. The Arbitrator was unable to confirm whether or not the settlement was conditioned on the customer not opposing the request for expungement. Although the Settlement Agreement related to occurrence number [REDACTED] was not available, and Claimant paid that full settlement amount, the Arbitrator granted expungement based on the circumstances of the matter described in the award section below.

The Arbitrator noted that [REDACTED] did not previously file a claim requesting expungement of occurrence numbers [REDACTED] [REDACTED] and [REDACTED]

In recommending expungement the Arbitrator relied upon the following documentary or other evidence: the pleadings, Claimant's testimony, Claimant's BrokerCheck® Report, correspondence between SII and one of the customers (with respect to occurrence number [REDACTED]), and a document entitled "Structured Products Suitability and Statement of Acknowledgement Form" (also with respect to occurrence number [REDACTED]). The Arbitrator also reviewed an 80 page submission from the executrix of the estate of the customer with respect to occurrence number [REDACTED].

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 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:

Claimant was the customer's financial advisor. The customer's estate filed the complaint alleging that the estate incurred losses due to Claimant's "undue delay and excessive commissions" in connection with the liquidation of the estate's account. Claimant testified that the liquidation was delayed due to the executrix's failing to follow the firm's procedures for establishing the estate account. Claimant further testified that the commissions charged in connection with the liquidation were the standard amount established by SII. There is no evidence that Claimant engaged in any improper conduct with respect to this account and thus, the claims and allegations are clearly erroneous. Eventually SII settled with the customer for \$5,000.00 because it made sense to do so from a business perspective. Claimant paid the entire amount of the settlement. The settlement documents were not provided to the Arbitrator due to the age of the settlement.

2. 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 finding of fact:

The claim, allegation, or information is false.

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

Claimant was the customer's financial advisor. The customer complained that Claimant failed to buy puts on a revertible bond as a hedge on his investment and consequently lost \$3,400.00. Claimant testified that he was not directed to purchase the puts for the non-discretionary account. No arbitration was filed by the customer and no settlement was entered into between the customer and Claimant and/or SII. Claimant continues to serve as the customer's financial advisor. Based upon Claimant's testimony and the fact that the customer did not take any further action (other than continue working with Claimant), the Arbitrator concludes that the claims and allegations were false.

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 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:

Claimant was the customer's financial advisor. The customer complained that Claimant made a misrepresentation with respect to an unauthorized transaction involving an investment that resulted in a loss of \$36,000.00. The customer's complaint evolved into a FINRA arbitration action that was settled for \$6,000.00, all of which was paid by Claimant. According to Claimant, the customer did not want to file the arbitration but was compelled to do so by his wife. The investment at issue was fully disclosed to the customer in writing, although there is no way to determine what was said to the customer verbally. Noteworthy is the fact that before the customer purchased the security, both he and his wife spoke with the Claimant concerning the investment. After deliberating about the investment and its risks, only the customer purchased the security. There is no evidence to suggest that the transaction was unauthorized (the complaint was initially made almost a year after purchase). One of the primary causes of the customer's loss was the fact that the high yielding instrument was a victim of the 2008 market downturn. No settlement documents were produced, but the Claimant testified that the matter was settled for an amount that was well within the anticipated costs of litigating the arbitration claim. The Arbitrator concludes that the claims and allegations are clearly erroneous.

4. 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 events giving rise to the dispute. Accordingly, as a party, SII Investments, Inc. 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: May 16, 2018	1 session	
Two (2) hearing sessions on expungement request @ \$50.00/session	= \$	100.00
Hearing Dates: November 27, 2018	1 session	
December 18, 2018	1 session	
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Total Hearing Session Fees	= \$	150.00

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

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


ARBITRATOR

Louis H. Miron

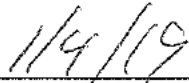
- Sole Public Arbitrator

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



Louis H. Miron
Sole Public Arbitrator



Signature Date

January 4, 2019
Date of Service (For FINRA Office of Dispute Resolution office use only)