

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

CUSO Financial Services, L.P.

Hearing Site: Portland, Oregon

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ (“Claimant”): Doctor Kennedy, MBA, JD and Harris Freedman, Esq., AdvisorLaw LLC, Westminster, Colorado.

For Respondent CUSO Financial Services, L.P. (“Respondent”): Maria J. Seedner, Esq., Corporate Counsel, CUSO Financial Services, LP, San Diego, California.

CASE INFORMATION

Statement of Claim filed on or about: December 28, 2018.

Amended Statement of Claim filed on or about: February 11, 2019

Claimant signed the Submission Agreement: December 26, 2018.

Statement of Answer filed by Respondent on or about: February 15, 2019

Respondent signed the Submission Agreement: February 25, 2019.

CASE SUMMARY

Claimant asserted a claim seeking expungement of a customer complaint (“Underlying Complaint”), occurrence number ██████████ from his Central Registration Depository (“CRD”) records.

In the Amended Statement of Claim, Claimant included additional factual allegations.

In the Statement of Answer, Respondent advised that it did not oppose Claimant’s request for expungement.

RELIEF REQUESTED

In the Statement of Claim and Amended Statement of Claim, Claimant requested:

1. Expungement of the Underlying Complaint from his CRD records, pursuant to a finding that the claim, allegation, or information is factually impossible and clearly erroneous pursuant to FINRA Rule 2080(b)(1)(A);
2. Expungement of the Underlying Complaint from his CRD records, pursuant to a finding that the claim, allegation, or information is false, pursuant to FINRA Rule 2080(b)(1)(C);
3. Compensatory 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 Statement of Answer, Respondent did not set forth any request for relief.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

On July 1, 2019, Claimant provided notice that the Statement of Claim and notice of the expungement hearing had been served on the customer in the Underlying Complaint ("Customer").

On July 15, 2019, Claimant filed an Affidavit of Service advising that the Customer had been served with a copy of the Statement of Claim.

The Arbitrator conducted a recorded telephonic hearing on August 6, 2019 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement. The Customer did not participate in the expungement hearing. The Arbitrator found that the Customer had notice of the hearing but did not appear.

The Arbitrator reviewed Claimant's BrokerCheck® Report.

The Arbitrator also reviewed the settlement documents, considered the amount of payments made to any party, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the Customer not opposing the request for expungement. The Arbitrator also noted that while the BrokerCheck® Report indicates that Claimant contributed \$5,000.00 to the settlement amount, based on Claimant's testimony and the letter submitted by Claimant's subsequent employer, the Arbitrator found that Claimant's subsequent employer actually paid the \$5,000.00 contribution that Claimant agreed to pay, as there was no evidence of wrongdoing by Claimant.

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

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony; Claimant's BrokerCheck® Report; Correspondence dated March 1, 2012 from Respondent's Director of Compliance to the Customer ("Exhibit 12"); and Letter August 8, 2019 from Claimant's manager after leaving Respondent confirming Claimant's subsequent employer paid Claimant's settlement contribution amount ("Exhibit 15").

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 the Underlying Complaint, occurrence number 1601188, from registration records maintained by 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 claim, allegation, or information is false.

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

According to the BrokerCheck® Report, the Customer claimed the investments were not suitable and did not provide adequate liquidity. Claimant's testimony suggested that the Customer's financial status and circumstances changed dramatically between the time Claimant recommended the investments and the time the Customer submitted her complaint questioning the liquidity of those investments. Claimant's testimony was supported by Exhibit 12 and Exhibit 15, as they contained statements that there was no evidence of Claimant having done anything wrong. In his response to the Customer's letter of complaint, Respondent's Director of Compliance stated that "[i]t is apparent that your current financial situation and need for immediate liquid resources differs significantly than what was presented to [Claimant] at the time of your investment purchases

and meeting with him.” Thus, the investments were suitable given the Customer's financial situation at the time the recommendations were conveyed.

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
--------------------------	------------

**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
------------------	-------------

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 13, 2019	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$50.00
Hearing Date: August, 6, 2019	1 session

Total Hearing Session Fees	= \$100.00
----------------------------	------------

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.

ARBITRATOR

William W. Haskell

-

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

William W. Haskell

William W. Haskell
Sole Public Arbitrator

08/30/2019

Signature Date

September 03, 2019

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