

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

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In the Matter of the Arbitration Between:

Claimant

██████████

Case Number: ██████████

vs.

Respondent

Questar Capital Corporation

Hearing Site: Atlanta, Georgia

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████ ("Claimant"): Erica Harris, Esq. and Dochter Kennedy, MBA, J.D., AdvisorLaw LLC, Westminster, Colorado.

For Respondent Questar Capital Corporation ("Respondent"): Jeffrey D. Hedlund, Esq. and Daniel R. Kelley, Esq., Faegre Baker Daniels LLP, Minneapolis, Minnesota.

**CASE INFORMATION**

Statement of Claim filed on or about: December 27, 2018.

Amended Statement of Claim filed on or about: January 17, 2019.

Claimant signed the Submission Agreement: December 27, 2018.

Statement of Answer filed by Respondent on or about: March 13, 2019.

Respondent signed the Submission Agreement: January 18, 2019.

**CASE SUMMARY**

Claimant asserted a claim seeking expungement of a customer complaint, occurrence number ██████████ ("Underlying Complaint") 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 does 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 FINRA Rule 2080(b)(1)(A) as the claim, allegation, or information is factually impossible or clearly erroneous;
2. Expungement of the Underlying Complaint from his CRD records pursuant to FINRA Rule 2080(b)(1)(C) as the claim, allegation, or information is false;
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 denied that Claimant was entitled to any monetary relief.

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

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

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

On July 15, 2019, Claimant provided notice that the Amended Statement of Claim, Statement of Answer, and notice of the expungement hearing were served on the customer in the Underlying Complaint ("Customer").

On August 1, 2019, Claimant filed an Affidavit of Service, signed by Claimant's counsel, advising that a copy of the Statement of Claim had been served on the Customer.

The Arbitrator conducted a recorded telephonic hearing on August 15, 2019 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and did not contest the request for expungement. The Arbitrator found that the Customer had notice of the expungement hearing but did not appear.

The Arbitrator reviewed the BrokerCheck® Report for Claimant.

The Arbitrator 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 found that the Respondent and insurance company settled the case by returning the purchase funds and interest thereon, in order to be done with the case. The Arbitrator noted that the settlement was not conditioned on the Customer not opposing the request for expungement. The Arbitrator also noted that the settlement amount was minimal, and that Claimant did not contribute to the settlement amount.

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: Amended Statement of Claim; Statement of Answer, Claimant's

BrokerCheck® Report; Settlement Agreement and Release; and Expungement Exhibits 1- 18.

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 all references to the Underlying Complaint, occurrence number [REDACTED] 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:

The Arbitrator after hearing the evidence, and reviewing the documents submitted, FINRA Rules, and testimony given, found that the Customer's claims against the Claimant were false and clearly erroneous, thereby ruling for expungement of the Claimant's record. The Customer was fully informed as to her investment, signed notarized statements to that effect, was given a grace period to withdraw and did not. The statements against Claimant of incorrectly stating net worth and pressure sales are false.

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 29, 2019 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$50.00  
Hearing Date: August 15, 2019 1 session

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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**

Michael J. Ahlstrom

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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**

***Michael J. Ahlstrom***

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Michael J. Ahlstrom  
Sole Public Arbitrator

08/27/2019

\_\_\_\_\_  
Signature Date

August 28, 2019

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