

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

██████████

Master Consolidated Case Number:

██████████

vs.

Respondent

RP Capital LLC

Hearing Site: Los Angeles, California

Consolidated with:

Claimant

██████████

Subordinate Case Number:

██████████

vs.

Respondent

RP Capital LLC

Hearing Site: Los Angeles, California

Nature of the Disputes: Associated Person vs. Member
Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ ("Claimant"): Owen Harnett, Esq., HLBS Law,
Westminster, Colorado.

For Respondent RP Capital LLC ("Respondent"): Gary Price, CEO, RP Capital LLC, Gig
Harbor, Washington.

CASE INFORMATION

Master Consolidated Case ██████████

Statement of Claim filed on or about: February 5, 2018.

Amended Statement of Claim filed on or about: November 21, 2018.

Claimant signed the Submission Agreement: February 5, 2018.

Respondent did not file a Statement of Answer or sign a Submission Agreement.

Subordinate Case ██████████

Statement of Claim filed on or about: April 6, 2018.

Claimant signed the Submission Agreement: April 6, 2018.

Statement of Answer filed by Respondent on or about: July 9, 2018.
Respondent did not sign a Submission Agreement.

CASE SUMMARY

Master Consolidated Case [REDACTED]

Claimant requested expungement of a FINRA Arbitration case, occurrence number [REDACTED] which was withdrawn and then enjoined into a class-action civil suit ("Class Action"), from his Central Registration Depository ("CRD") records. In the Amended Statement of Claim, Claimant consolidated the Statements of Claim in cases [REDACTED] and [REDACTED].

Subordinate Case [REDACTED]

Claimant requested expungement of two customer disputes: another FINRA Arbitration case, occurrence number [REDACTED], which was also withdrawn and enjoined into the Class Action; and a state court case, occurrence number [REDACTED], which was also enjoined into the Class Action, from his CRD records.

In the Statement of Answer, Respondent did not contest the present action and stipulated to the expungement of the occurrence numbers [REDACTED] and [REDACTED] from Claimant's CRD records.

RELIEF REQUESTED

Master Consolidated Case [REDACTED]

In the Statement of Claim, Claimant requested:

1. Expungement of occurrence number [REDACTED] from his CRD records pursuant to:
 - a. FINRA Rule 2080(b)(1)(A) as the claim, allegation, or information is factually impossible or clearly erroneous; and
 - b. FINRA Rule 2080(b)(1)(C) as the claim, allegation, or information is false;
2. Compensatory damages in the amount of \$1.00 from Respondent; and
3. Any and all other relief that the Arbitrator deems just and equitable.

In the Amended Statement of Claim, Claimant requested the same relief as in the Statement of Claim but added a request for expungement of occurrence numbers [REDACTED] and [REDACTED].

Subordinate Case [REDACTED]

In the Statement of Claim, Claimant requested:

1. Expungement of the occurrence numbers [REDACTED] and [REDACTED] from his CRD records pursuant to:
 - a. FINRA Rule 2080(b)(1)(A) as the claim, allegation, or information is factually impossible or clearly erroneous; and
 - b. FINRA Rule 2080(b)(1)(C) as the claim, allegation, or information is false;
2. Damages in the amount of \$1.00 from Respondent; and
3. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent opposed any request for damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent did not file with FINRA Office of Dispute Resolution properly executed Submission Agreements in either the Master Consolidated Case [REDACTED] or the Subordinate Case [REDACTED] but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and, having answered the claim in the Subordinate Case 1 [REDACTED], is bound by the determination of the Arbitrator on all issues submitted.

Master Consolidated Case [REDACTED]

The Initial Pre-hearing Conference ("IPHC") in this case was held May 21, 2018. Respondent did not participate in the IPHC. By IPHC Order dated May 23, 2018, the Arbitrator directed, among other things, that Claimant give notice to the customer in occurrence number [REDACTED] ("Ms. M") and invite her to appear, and provide written confirmation of the invitation to Ms. M and a response (if any) or certification of non-response.

By letter dated August 27, 2018, Claimant provided a copy of his notice to Ms. M regarding the Statement of Claim and the expungement hearing. By email dated September 25, Ms. M advised Claimant, among other things, that she supported having this matter expunged from his CRD records, and advised that "my lawyer coached me into saying whatever I said. He said he needed my statement to go after your insurance money."

Subordinate Case [REDACTED]

The IPHC in this case was held August 16, 2018. Respondent did not participate in the IPHC. By IPHC Order that same date, the Arbitrator directed, among other things, that Claimant provide proof of service to each of the customers in occurrence numbers [REDACTED] and [REDACTED] of a copy of the Statement of Claim and notice of the hearing.

By letters dated October 1 and 2, 2018, Claimant provided copies of his notices to some of the customers in the Underlying Claims regarding the Statement of Claim and the expungement hearing. By Affidavit signed October 17, Claimant advised that the customers had been served with the Statement of Claim.

On October 3, 2018, Claimant provided an email dated September 28 from one of the customers, Mr. B, who advised that he was in favor of Claimant's request for expungement.

Cases Consolidated

On October 22, 2018, in case [REDACTED], Claimant filed a Motion to Amend the Statement of Claim to consolidate cases [REDACTED] and 1 [REDACTED]. Respondent did not submit a response. On November 19, a pre-hearing conference was held to discuss the request to consolidate, along with another matter. Respondent did not participate in the pre-hearing conference. By Order dated November 21, 2018, the Arbitrator granted Claimant's request

to consolidate the cases. Accordingly, Claimant's Amended Statement of Claim became part of the record.

Hereinafter, occurrence numbers [REDACTED], [REDACTED] and [REDACTED] will be collectively referred to as the "Underlying Claims."

By letter dated November 24, 2018, one of the customers, Mr. D, advised FINRA staff, among other things, that he disagreed with a statement made by Claimant in the Statement of Claim with respect to his risk tolerance, and stated that, he recognizes the Arbitrator's responsibility to decide whether or not to grant expungement and that he will rely on the Arbitrator's judgement.

By letters dated December 12, 2018, Claimant provided copies of his notices to all of the customers in the Underlying Claims regarding the Amended Statement of Claim and the expungement hearing. By Affidavit signed December 13, Claimant advised that he was unable to serve one of the customers, Mr. Y, and advised that he used all relevant documentation and information in his possession to search the public information available on the LexisNexis database for the customers' addresses. He further stated that he was unable to narrow the search parameters to locate any information relating to Mr. Y. Claimant also advised that Respondent was unable to provide any new information to assist with his search for Mr. Y's address and, as such, has exhausted all avenues from which to obtain information needed to serve Mr. Y.

By Affidavit signed December 20, 2018, Claimant advised that the customers in the Underlying Claims, except for Mr. Y, had been served with the Amended Statement of Claim.

On January 8, 2019, Claimant filed an undated letter from two of the customers, Mr. and Mrs. R, wherein they stated, among other things, that Claimant made misrepresentations and that they "do not think restoring [REDACTED] licenses will benefit the investing public and could result in further harm and injury to other individuals looking for financial guidance."

The Arbitrator conducted a recorded telephonic hearing on January 14, 2019 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing and, as previously advised, stipulated to the expungement of occurrence numbers [REDACTED] and [REDACTED] from Claimant's CRD records. Respondent did not file a response in relation to Claimant's request for expungement of occurrence number [REDACTED].

None of the customers participated in the expungement hearing. The Arbitrator determined that the customers, except Mr. Y, had been properly served with the Amended Statement of Claim and received due notice of the expungement hearing. As previously advised, with respect to Claimant's expungement request, Ms. M and Mr. B supported it, Mr. D did not take a position and Mr. and Mrs. R appeared to object to it. No other customer filed a response. After a review of Claimant's efforts to serve Mr. Y, as outlined earlier, the Arbitrator determined that Claimant had exercised due diligence in his search and that the expungement hearing would proceed without notice to Mr. Y.

The Arbitrator reviewed Claimant's BrokerCheck® Report.

The Arbitrator reviewed the Amended Findings of Fact, Conclusions of Law and Order Granting Plaintiffs' Motion for Final Approval of Class Action Settlement, Motion for Award of Attorney Fees, Costs, and Incentive Awards, and Responding Defendants' Request for Permanent Injunction issued by the U.S. District Court Judge. The Arbitrator noted that the Class Action settled for \$6,100,000.00, including attorneys' fees, costs and incentive awards. The Arbitrator did not consider it necessary to review the settlement documents as well. Since the Arbitrator did not review the Class Action settlement documents, he did not consider the relevant terms and conditions of the settlement, or whether the settlement was conditioned on the customers not opposing the request for expungement. The Arbitrator did consider that \$1,200,000.00 of the settlement was to be paid by Claimant and other parties. The Arbitrator further noted that Claimant did not personally contribute to the settlement because he testified that the insurance company paid the settlement on his behalf.

The Arbitrator noted that Claimant 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: the Statement of Claim; Claimant's exhibits; the customers' written submissions; and Claimant's testimony during the expungement hearing.

The Arbitrator has agreed that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement 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 numbers [REDACTED], [REDACTED] and [REDACTED] from registration records maintained by the 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 false.

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

The Arbitrator reviewed the evidence and testimony and recommends expungement pursuant to FINRA Rule 2080 for occurrence numbers [REDACTED], [REDACTED] and [REDACTED]. All the occurrences revolved around a third party entity (non-member firm) that was submitting false financial statements to investors. Claimant relied upon this false information. Claimant represented all information accurately that was conveyed to him, and the private placements were suitable based on the customers' investment goals and risk tolerance. Claimant acted at all times with the customers' best interests.

Based on Claimant's testimony and Ms. M's email dated September 25, 2018, the Arbitrator finds that the customers tailored their complaints on instruction of counsel so the customers could collect insurance proceeds for their underlying claims. The Arbitrator recommends expungement pursuant to FINRA Rule 2080 because all three occurrences are false.

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
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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(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
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Hearing Session Fees and Assessments

The Panel 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:

Three (3) pre-hearing sessions with a single arbitrator @ \$50.00/session	= \$ 150.00
Pre-hearing conferences: May 21, 2018	1 session
October 1, 2018	1 session
November 19, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
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Hearing Date: January 14, 2019 1 session

Total Hearing Session Fees =\$ 200.00

The Arbitrator has assessed \$200.00 of the hearing session fees to Claimant.

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

ARBITRATOR

Robert F. Saint-Aubin

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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



Robert F. Saint-Aubin
Sole Public Arbitrator



Signature Date

February 11, 2019

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