

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
[REDACTED]

Case Number [REDACTED]

vs.

Respondent
Greenpoint Securities LLC

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [REDACTED]: Michael Bessette, Esq, and Doctor Kennedy, Esq., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent Greenpoint Securities LLC: John Watson, Esq., Todd Ratner PLC, Richmond, Virginia.

CASE INFORMATION

Statement of Claim filed on or about: May 3, 2018.

[REDACTED] signed the Submission Agreement: May 3, 2018.

Statement of Answer filed by Respondent on or about: June 28, 2018.

Greenpoint Securities LLC signed the Submission Agreement: June 28, 2018.

CASE SUMMARY

Claimant asserted the following cause of action: Expungement.

In the Statement of Answer, Respondent does not oppose Claimant's request for expungement of his CRD record.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the occurrence from his CRD record pursuant to FINRA Rule 2080(b)(1)(A), as the claims, allegations, or information are factually impossible or clearly erroneous.

2. Expungement of the occurrence from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as the claims, allegations, or information are false.
3. An award of damages in the amount of \$1.00 from the Respondent.
4. Any and all other relief that the Arbitrator deems just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Arbitrator conducted a recorded telephonic hearing on November 8, 2018 so the parties could present oral argument and evidence on [REDACTED] request for expungement.

Claimant withdrew his request for compensatory damages at the hearing.

Respondent participated in the expungement hearing and did not contest the request for expungement.

Claimant provided FINRA Office of Dispute Resolution with proof that he notified the customer in the underlying complaint of the expungement request and of their right to participate and testify at the expungement hearing and included a copy of the Statement of Claim with the notice.

The customer did not participate in the expungement hearing and did not contest the request for expungement.

The Arbitrator reviewed Claimant's BrokerCheck® Report and noted that Claimant did not previously file a claim requesting expungement of the same disclosure in the CRD.

The Arbitrator did not review the settlement documents as the Claimant's employer apparently reached a settlement many years ago, and the Claimant was not informed of the customer complaint and did not participate in any way in the settlement. Respondent testified that it no longer was in possession of the Settlement Agreement, it had been destroyed in accordance with Respondent's typical document retention policy. The Arbitrator noted that the settlement was not conditioned on the customer not opposing the request for expungement and that Claimant did not contribute to the settlement amount. The Arbitrator granted expungement based on the credible testimony provided by the Claimant and Respondent counsel's affirmation of the same. Both parties testified that Claimant followed the customer's instructions.

In recommending expungement the Arbitrator relied upon the following documentary or other evidence: the pleadings 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 claim, allegation, or information is false.

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

This case seems to represent customer abuse of a broker. Claimant stated that the customer invested in one security, a mutual fund, and for years made no complaint of any kind to him. Only when he left his former employer did the customer raise any kind of complaint. The case was settled without Claimant ever being served or otherwise aware of the complaint until very recently. At best, the complaint was utterly erroneous or outright false.

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, Respondent Greenpoint Securities LLC 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: August 28, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: November 8, 2018	1 session

Total Hearing Session Fees	= \$100.00
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The Arbitrator has assessed the \$100.00 hearing session fees to Claimant.

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

ARBITRATOR

Richard W. Cutler

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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



Richard W. Cutler
Sole Public Arbitrator

12/27/18

Signature Date

December 31, 2018

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