

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

██████████

Case Number: ██████████

vs.

Respondent

Phx Financial, Inc.

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ Christopher Cummins, Esq., AdvisorLaw LLC,
Westminster, Colorado.

For Respondent Phx Financial, Inc.: Daniel Otoya, PHX Financial, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: January 4, 2019.

Amended Statement of Claim filed on or about: February 14, 2019.

██████████ signed the Submission Agreement: January 4, 2019.

Statement of Answer filed by Respondent on or about: February 20, 2019.

Phx Financial, Inc. signed the Submission Agreement: February 22, 2019.

CASE SUMMARY

Claimant asserted the following cause of action: expungement.

Respondent took no position relating to the contentions set forth in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of occurrence number ██████████ 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 requested that Claimant's request for compensatory damages be denied and all forum fees be assessed against Claimant. Respondent did not oppose Claimant's request for expungement of occurrence number ██████████

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges that she 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 complaint in occurrence number [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 a recorded in-person hearing on June 5, 2019 so the parties could present oral argument and evidence on Claimant [REDACTED] request for expungement of occurrence number [REDACTED].

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

The Arbitrator reviewed the BrokerCheck® Report for [REDACTED] and the settlement documents related to occurrence number [REDACTED] considered the settlement terms, considered the payment made to the customers in the underlying complaint, and considered the other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the customers not opposing the request for expungement. The Arbitrator noted that [REDACTED] did not contribute to the settlement amount.

The Arbitrator noted that Claimant [REDACTED] did not previously file a claim requesting expungement of occurrence number [REDACTED].

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, Claimant's testimony and exhibits, and Claimant's BrokerCheck® Report.

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:

Customers opened their Options Joint Account with PHX Financial, Inc., then known as Blackwell Capital Markets, on May 2, 2013. On various account opening documents, they indicated their Investment Objective was Speculation and their Risk Tolerance was High Risk, with an investment time horizon of less than one year. They also indicated investment experience of more than 10 years in options strategies and more than 20 years in stocks. Claimant was the co-advisor on this account for one month, from May of 2013 to June of 2013, during which he received verbal authorizations for all trades he executed in this account and during which time the account value increased by 10%. In June 2013, the other advisor took sole control of this customers' account and pursued an aggressive investment strategy, the results of which precipitated the complaint filed by customers in FINRA case 15-00094, alleging "unsuitability, breach of fiduciary duty, common law fraud, breach of contract, negligent supervision & violation of the Texas Securities Act for the period April 2013 to December 2013." The customers hadn't yet even opened their account in April 2013 and were no longer clients of the Claimant as of June 2013. The Claimant was not involved in any alleged wrong doing because the customers were no longer his clients when such activity took place. Mr. Rachmanov was merely one of several people listed as Respondents in the complaint filed by customers with FINRA. Customers sought damages of \$400,000 and settled for \$90,000 or 22.5% of their requested amount.

Claimant has worked in the securities industry since 2011 and, with the exception of this complaint, has a clean CRD record. There is no meaningful investor protection or regulatory value in this complaint on his record.

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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, PHX Financial, Inc. 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, 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: April 29, 2019 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing Date: June 5, 2019 1 session

Total Hearing Session Fees = \$ 100.00

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

Karen Isabel Bedrosian -
Richardson

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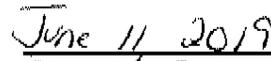
Sole Public Arbitrator

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



Karen Isabel Bedrosian - Richardson
Sole Public Arbitrator



Signature Date

June 14, 2019

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