

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

National Securities Corporation

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ Erica Harris, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent National Securities Corporation: Emily A. Hayes, Esq., National Securities Corporation, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 20, 2018.
Claimant signed the Submission Agreement: February 20, 2018.

Statement of Answer filed by Respondent on or about: April 11, 2018.
Respondent signed the Submission Agreement: April 11, 2018.

CASE SUMMARY

Claimant asserted the following cause of action: expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the occurrences from his CRD record pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous.
2. Expungement of the occurrences from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false.
3. An award of damages in the amount of \$1.00.

4. Any and all other relief as deemed just and equitable.

Claimant withdrew the request for \$1.00 damages during the hearing.

In the Statement of Answer, Respondent took no position on Claimant's expungement request and asked that Claimant pay all forum fees and costs.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Arbitrator conducted a recorded telephonic hearing on December 19, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

Claimant informed FINRA Office of Dispute Resolution that the customer in the underlying complaint for Occurrence Number [REDACTED] is deceased and therefore could not be notified of Claimant's expungement request.

Claimant provided FINRA Office of Dispute Resolution with proof that he notified the customers in the underlying complaints for Occurrence Numbers [REDACTED] and [REDACTED] 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 in the underlying complaint for Occurrence Number [REDACTED] did not participate in the expungement hearing and did not contest the request for expungement.

The customer in the underlying complaint for Occurrence Number [REDACTED] participated in the expungement hearing and opposed the request for expungement.

The Arbitrator reviewed the BrokerCheck® Report [REDACTED] and noted that he did not previously file claims requesting expungement of the same disclosure in the CRD.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, correspondence, account records, and Claimant's testimony presented at the expungement hearing.

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:

In or around 2003, the customer became Claimant's client. Based on a review of his financial situation and objectives, he was interested in fixed income investments. The account was non-discretionary. In October 2008, after several discussions with Claimant, the customer made an unsolicited investment in certain bonds. Due to the market correction of 2008-2009, the customer sustained losses on this bond position.

In June of 2011, the customer alleged unauthorized trading in his account and margin problems. However, he did not have a margin account, and the claim of unauthorized trading was not substantiated by the testimony or the exhibits produced. The claim was denied by the firm and no further action was taken by the customer, who passed away in 2013.

2. 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] ([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:

The customer, a sophisticated investor, became Claimant's client prior to October, 2011 with a primary objective of speculation. Based on his customer profile, Claimant and the customer discussed in detail an investment in SLM Corp. stock. When a sizeable position became available, the customer agreed to purchase 200,000 shares but, since he did not then have sufficient funds to complete the transaction, received an extension of time from the firm to do so. When the stock declined in price shortly after purchase, the customer stopped payment on his check and refused to complete the transaction, resulting in a loss in his account when the firm sold out the position. His claim that the stock had been "misrepresented" to him was rejected by the firm after investigation, and he took no further steps concerning it.

The customer was notified of the expungement hearing but did not appear or offer any evidence in opposition.

3. Claimant's request for expungement of Occurrence Number [REDACTED] from his CRD records is denied.
4. Any and all claims for relief not specifically addressed herein is 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 event giving rise to the dispute. Accordingly, as a party, Respondent National Securities Corporation 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 31, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$50.00
Hearing Date: December 19, 2018	1 session

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

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

