

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Eagle Gate Securities, Inc.

Hearing Site: Salt Lake City, Utah

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ (“Claimant”): Dochter Kennedy, Esq., and Michael O’Gara, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Eagle Gate Securities, Inc. (“Respondent”): Chase A. Adams, Esq., Adams Law, Sandy, Utah.

CASE INFORMATION

Statement of Claim filed on or about: August 8, 2018.
Claimant signed the Submission Agreement: August 8, 2018.

Statement of Answer filed by Respondent on or about: December 3, 2018.
Respondent signed the Submission Agreement: December 17, 2018.

CASE SUMMARY

Claimant asserted a claim seeking expungement of a termination disclosure on his Form U5 on Claimant’s Central Registration Depository (“CRD”) records filed by Respondent. Claimant alleged that the termination disclosure at issue is defamatory in nature.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the Form U5 language cited and the relevant portions of the

Form U4 from Claimant's CRD records on the basis that the statements are false and defamatory in nature, misleading, inaccurate, and erroneous, to include:

- a. An amendment of the Disclosure Events entry to remove "termination;"
 - b. An amendment of the Termination Type section of the Employment Separation After Allegations entry of Claimant's Form U5 to read "Voluntary" and expungement of the "Yes" answer to Questions 7f, amending those responses to "No;"
 - c. Expungement of the Allegation sections narratives;
2. Compensatory damages in the amount of \$1.00 from Respondent;
 3. Any other relief as the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. Claimant's claim be denied to include:
 - a. Denial of any amendment of the disclosure to remove "termination";
 - b. Denial of any amendment of the termination to state "voluntary" or otherwise expungement the Form U5; and
 - c. Denial of any amendment of the Form U5 to remove or otherwise change the reasons for termination;
2. Attorneys' fees and costs for this unnecessary and untimely Statement of Claim; and
3. Any other relief which the Arbitrator deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

On December 27, 2018, Claimant filed a Motion to Bar Defenses Due to Untimely Answer and on the same date, Respondent filed an opposition to Claimant's motion. By order of the same date, the Arbitrator denied Claimant's motion.

On December 27, 2018, Respondent filed a Motion to Dismiss pursuant to Rule 13206 of the Code of Arbitration Procedure ("Code"). On January 3, 2019, Claimant filed an opposition to Respondent's Motion to Dismiss. On January 9, 2019, Respondent filed a reply in support of its Motion to Dismiss. By Order dated January 10, 2019, the Arbitrator denied Respondent's Motion to Dismiss.

On February 26, 2019, at the evidentiary hearing, the Arbitrator ordered the parties to submit post-hearing submissions on the expungement of the Form U5. On March 7, 2019, the Arbitrator amended his Order regarding post-hearing submissions and ordered the parties to submit responses to the following questions by March 29, 2019:

1. A. What language, if any, in the Claimant's [CRD] should be expunged?
B. What is the reason for the requested expungement?
2. A. What language, if any, should be inserted or changed in the Claimant's [CRD]?
B. What is the reason for the requested insertion or change?

On March 29, 2019, Claimant and Respondent filed responses to the Arbitrator's March 7 Order.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Arbitrator recommends the expungement of the Reason for Termination and Termination Explanation in Section 3 of Claimant [REDACTED] (CRD# [REDACTED]) Form U5 filed by Eagle Gate Securities, Inc. (CRD# [REDACTED]) on November 11, 2003 and maintained by the CRD. The Reason for Termination should be changed to "Voluntary" and the Termination Explanation should appear blank.

In addition, the Arbitrator recommends the expungement of the "Yes" answers to Questions 7B and 7F(1) and 7F(2) on the foregoing Form U5 and all subsequent amendments and that the answers be changed to "No." The accompanying Internal Review and Termination Disclosure Reporting Pages should be deleted in their entirety.

These recommendations shall apply to all disclosures concerning these events, including but not limited to, the Amended Form U4 filed by H. Beck, Inc. (CRD# 1763) on November 21, 2012.

The Arbitrator is making these recommendations based on the defamatory nature of the information. The registration records are not automatically amended to include the changes indicated above. Claimant [REDACTED] must forward a copy of this Award to FINRA's Registration and Disclosure Department for review.

2. Claimant's request for \$1.00 in damages against Respondent is denied.
3. 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: November 26, 2018	1 session	

One (1) hearing session @ \$50.00/session	=	\$50.00
Hearing Date: February 26, 2019	1 session	

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

Merton E. Marks

-

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



Merton E. Marks
Sole Public Arbitrator


Signature Date

May 10, 2019
Date of Service (For FINRA Office of Dispute Resolution office use only)