

**Award**  
**FINRA Office of Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant

██████████

Case Number: ██████████

vs.

Respondent

J.P. Turner & Company, L.L.C.

Hearing Site: Newark, New Jersey

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████: Dochter Kennedy, Esq., and Harris Freedman, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent J.P. Turner & Company, L.L.C.: Christina Vourakis, Esq., Cetera Financial Group, El Segundo, California.

**CASE INFORMATION**

Statement of Claim filed on or about: February 6, 2018.  
Claimant signed the Submission Agreement: February 6, 2018.

Statement of Answer filed by Respondent on or about: April 18, 2018.  
Respondent signed the Submission Agreement: April 6, 2018.

**CASE SUMMARY**

Claimant asserted the following cause of action: expungement.

In the Statement of Answer, Respondent did not object to Claimant's expungement request.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested compensatory damages in the amount of \$1.00, expungement of occurrence numbers [REDACTED] and [REDACTED], and any and all relief that the Arbitrator deems just and equitable.

In the Statement of Answer Respondent requested a statement from the Chairperson on the issue of whether to order expungement, dismissal of Claimant's request for compensatory damages, and an order that all forum costs and fees are assessed against Claimant.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On or about June 22, 2018, the parties entered into a Joint Stipulation and Proposed Order agreeing that Claimant will not assert any new claims against Respondent in this matter, or seek an award greater than \$1.00 against Respondent; Respondent did not engage in any wrongdoing; all fees and costs incurred be assessed solely against Claimant; Respondent shall produce discovery related to the aforementioned occurrence numbers; Respondent shall not be required to appear or produce any witnesses; and Respondent would not oppose Claimant's request for expungement of the matters identified in this matter. The Chair executed the Order on July 9, 2018.

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

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

Claimant provided the FINRA Office of Dispute Resolution with proof that he notified the customers of the expungement request and of their right to participate and testify at the expungement hearing and served the customers with the Statement of Claim.

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

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

The Arbitrator noted that [REDACTED] did not previously file a claim requesting expungement of the same disclosure in the CRD.

In recommending expungement the Arbitrator relied upon the following documentary or other evidence: testimony and exhibits, Margin Account Agreement, and Suitability Supplement Margin Account Agreement.

### 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 false.

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

[REDACTED] was the customer's Financial Advisor. The customer alleged that [REDACTED] engaged in "churning" and executed an unauthorized transaction. Respondent J.P. Turner & Company ("JPT") properly reported the complaint on [REDACTED] CRD. Apparently, the customer maintained a non-discretionary margin account with [REDACTED] and was subject to a margin call. According to [REDACTED] the customer did not forward funds to JPT and, therefore, securities from the account were sold in order to meet the margin call. There is no evidence that [REDACTED] churned the account or engaged in any unauthorized trading in connection with this margin call. The customer did not file an arbitration case and was not compensated for his alleged losses that related to the margin call.

2. Claimant's claim for expungement of occurrence number [REDACTED] is denied. Based on the documents and testimony presented at the telephonic hearing, [REDACTED] has not satisfied any of the narrow grounds set forth in FINRA Rule 2080.
3. 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

*\*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, J.P. Turner & Company, L.L.C. 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: July 17, 2018 1 session

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

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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**

Louis H. Miron

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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**



\_\_\_\_\_  
Louis H. Miron  
Sole Public Arbitrator

1-16-19  
\_\_\_\_\_  
Signature Date

**January 17, 2019**

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