

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Joao Fabio Lopes

Case Number: 19-00372

vs.

Respondent
Fidelity Brokerage Services LLC

Hearing Site: Manchester, New
Hampshire

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Associated Person vs. Member

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Joao Fabio Lopes: Dochter Kennedy, MBA J.D, and Harris Freedman, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Fidelity Brokerage Services LLC: David I. Hantman, Esq., Bressler Amery & Ross, P.C., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: January 31, 2019.

Joao Fabio Lopes signed the Submission Agreement: January 31, 2019.

Statement of Answer filed by Respondent on or about: March 25, 2019.

Fidelity Brokerage Services LLC signed the Submission Agreement: March 26, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of Form U5/Termination based on the defamatory nature of the entry in Claimant's Central Registration Depository ("CRD") records.

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: expungement of the Form U5 amendments, and those relevant portions of the Form U4, from Claimant's CRD record on the basis that the statement is defamatory in nature, misleading, inaccurate, and/or erroneous, to include an amendment of the Reason for Termination entry in Section 3 of Claimant's Form U5 to read "Voluntary;" subsequent expungement of the Reason for Termination explanation on Claimant's CRD; expungement of the "Yes" answers to Questions 7F(1) and 7F(2) of Claimant's Form U5, amending those "Yes" responses to "No;" and a deletion of any of the accompanying Internal Review and Termination Disclosure Reporting Pages in their entirety; compensatory damages in the amount of \$1.00 from Respondent; and any other relief as deemed just and equitable.

In the Statement of Answer, Respondent requested that the Statement of Claim be dismissed in its entirety; assess all forum fees and costs against Claimant; and for such other, further and different relief as may be deemed appropriate.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

AWARD

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

The Arbitrator recommends the expungement of all references to Occurrence Numbers 1979487 and 1979488 maintained by the Central Registration Depository ("CRD") for Joao Fabio Lopes (CRD Number 5188209). Any "Yes" answers should be changed to "No," as applicable.

The Arbitrator recommends expungement based on the defamatory nature of the information. The above recommendations are made with the understanding that the registration records are not automatically amended. Joao Fabio Lopes must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure Department for review.

1. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code of Arbitration Procedure ("Code"), the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services 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, Respondent Fidelity Brokerage Services LLC 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, which lasts four (4) hours or less. Fees associated with these proceedings are:

Four (4) pre-hearing sessions with a single Arbitrator @ \$50.00/session	= \$	200.00
Pre-Hearing Conferences: June 5, 2019	1 session	
May 4, 2020	1 session	
November 17, 2020	1 session	
July 14, 2021	1 session	

Three (3) hearing sessions on expungement request @ \$50.00/session	= \$	150.00
Hearings: August 10, 2021	2 sessions	
August 11, 2021	1 session	

Total Hearing Session Fees = \$ 350.00

The Arbitrator has assessed \$175.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$175.00 of the hearing session fees to Respondent.

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

ARBITRATOR

Robert L. Chase

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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

Robert L. Chase

08/23/2021

Robert L. Chase
Sole Public Arbitrator

Signature Date

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August 23, 2021

Date of Service (For FINRA Dispute Resolution Services use only)