

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jim L. Fletcher

Case Number: 19-02376

vs.

Respondent
Edward Jones

Hearing Site: Dallas, Texas

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: Customer vs. Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted partially by videoconference.

REPRESENTATION OF PARTIES

For Claimant Jim L. Fletcher (“Claimant”): Joshua C. Spencer, Esq. and Joe A. Spencer, Jr., Esq., El Paso, Texas.

For Respondent Edward Jones (“Respondent”): Donald R. Littlefield, Esq. and Susan A. Logsdon, Esq., Bressler, Amery & Ross, P.C., Houston, Texas.

CASE INFORMATION

Statement of Claim filed on or about: August 20, 2019.
Claimant signed the Submission Agreement: August 19, 2019.

Statement of Answer on or about: October 8, 2019.
Respondent signed the Submission Agreement: October 9, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract, breach of fiduciary duty, breach of legal duty, and negligence. The causes of action related to Claimant’s allegation that funds were transferred from Claimant’s account without proper consent or authorization.

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 compensatory damages in the amount of \$854,000.00, all attorney's fees, and all costs associated with the filing of this claim.

In the Statement of Answer, Respondent requested that Claimant's claims be denied in their entirety and such other relief the Panel determines is just and equitable.

Respondent filed a request for expungement on behalf of Unnamed Party Craig Alan Foreman ("Foreman") of all references to this matter from Central Registration Depository ("CRD") registration records. Please see the Other Issues Considered and Decided section of this Award for more information.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On July 29, 2021, Respondent filed a Motion to Designate a Responsible Third Party ("Motion to Designate"). On August 11, 2021, Respondent filed a letter in support of its Motion to Designate. No response to the Motion to Designate was received. In an Order dated August 18, 2021, the Panel denied Respondent's Motion to Designate.

On September 27, 2021, Respondent filed a Motion for Expungement on behalf of Foreman, to which no response was filed.

Following the recorded evidentiary hearing, which was held in person, the Panel conducted a recorded hearing by videoconference on November 8, 2021, so the parties could present oral argument and evidence on the request for expungement.

Claimant and Claimant's counsel participated in the expungement hearing and opposed the request for expungement.

The Panel reviewed Foreman's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

The Panel noted that this matter did not settle and, therefore, there was no settlement documentation to review.

In recommending expungement, the Panel relied upon the following documentary or other evidence: the testimony of Foreman and Claimant, the customer service calls made by Claimant's son to Respondent marked as Claimant's Exhibits 10 - 14, as well as Claimant's Exhibit 5, and Respondent's Exhibits 4, 10, 13, 15, 18, 19, and A through G.

The Award in this matter may be executed in counterpart copies.

AWARD

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

1. Claimant's claims are denied in their entirety.
2. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2055932) from registration records maintained by the CRD for Unnamed Party Craig Alan Foreman (CRD Number 6335574) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Craig Alan Foreman 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 12805 of the Code of Arbitration Procedure ("Code"), the Panel has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

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

The theft that occurred in this case was carried out by Claimant's son, who used personal protected information willingly provided to him by Claimant to defeat Respondent's security protocols. Claimant's son is serving a substantial federal prison sentence for stealing more than \$18,000,000.00 and engaging in more than 25 instances of criminal conduct, a fraction of which involved Claimant's account at Respondent. Foreman was not negligent and did not breach fiduciary duties to Claimant. Foreman followed the security protocols of Respondent.

3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee	=\$ 1,725.00
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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(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	= \$	2,475.00
Member Process Fee	= \$	5,075.00

Hearing Session Fees and Assessments

The Panel 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), which lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) pre-hearing sessions with the Panel @ \$1,300.00/session	= \$	3,900.00
Pre-Hearing Conferences: December 19, 2019	1 session	
September 29, 2020	1 session	
March 30, 2021	1 session	
Four (4) hearing sessions @ \$1,300.00/session	= \$	5,200.00
Hearings: September 28, 2021	2 sessions	
September 29, 2021	2 sessions	
One (1) hearing session on expungement @ \$1,300.00/session		
Hearing: November 8, 2021	1 session	= \$ 1,300.00
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Total Hearing Session Fees	= \$	10,400.00

The Panel has assessed \$9,100.00 of the hearing session fees to Claimant.

The Panel has assessed \$1,300.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Nicole T. LeBoeuf	-	Public Arbitrator, Presiding Chairperson
Staci Lynette Glenn	-	Public Arbitrator
Penny R. Robe	-	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.

Concurring Arbitrators' Signatures

Nicole T. LeBoeuf

Nicole T. LeBoeuf
Public Arbitrator, Presiding Chairperson

11/14/2021

Signature Date

Staci Lynette Glenn

Staci Lynette Glenn
Public Arbitrator

11/12/2021

Signature Date

Penny R Robe

Penny R. Robe
Public Arbitrator

11/12/2021

Signature Date

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November 15, 2021

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