

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jeffrey Schneider

Case Number: 20-00417

vs.

Respondent
CIBC World Markets Corp.

Hearing Site: Houston, 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: Associated Person vs. Member

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Jeffrey Schneider (“Claimant”): Tosh D. Grebenik, Esq., Judex Law, LLC, Broomfield, Colorado.

For Respondent CIBC World Markets Corp. (“Respondent”): Elizabeth R. Aylett, Esq., CIBC World Markets Corp., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 5, 2020.
Claimant signed the Submission Agreement: February 5, 2020.

Statement of Answer filed on or about: March 16, 2020.
Respondent signed the Submission Agreement: March 16, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of customer dispute information from registration records maintained by the Central Registration Depository (“CRD”).

In the Statement of Answer, Respondent took no position on Claimant’s expungement request but denied all allegations of wrongdoing and liability to the Claimant.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1097540 and 1235416 and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent requested denial of Claimant's request for \$1.00 in compensatory damages and that all forum fees and hearing session fees be assessed against Claimant.

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.

On August 1, 2021, Claimant advised that the customers in Occurrence Numbers 1097540 and 1235416 ("Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded hearing by videoconference on November 1, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, took no position on the request for expungement.

The Customers did not participate in the expungement hearing. The Arbitrator found that the Customers had notice of the expungement request and hearing.

The Arbitrator reviewed Claimant's BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrences in the CRD.

The Arbitrator noted that the disputes related to Occurrence Numbers 1097540 and 1235416 were not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony, the pleadings, Claimant's exhibits, and the BrokerCheck® Report.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any 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 all references to Occurrence Numbers 1097540 and 1235416 from registration records maintained by the CRD for Claimant Jeffrey Schneider (CRD Number 2089051) with the understanding that, pursuant to Notice to

Members 04-16, Claimant Jeffrey Schneider 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 of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous;

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and

The claim, allegation, or information is false.

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

Occurrence Number 1097540

This claim was initially brought as an "unauthorized trading" case. The security in question was an alternative investment which took the form of limited partnership interests in a hedge fund. Sales of such securities are limited to sophisticated investors who must complete lengthy qualification questionnaires and subscription agreements in order to be allowed to purchase them. The subscription agreement has to be accepted by the promoter before the securities are purchased. The complaint contained no allegation that the questionnaire and subscription agreement did not contain the original signature of the Customer. It would have been factually impossible for Claimant to have purchased the security which is the subject of the complaint without the Customer's authorization and active participation in the purchase. The Customer's allegations of unauthorized trading are clearly erroneous. Moreover, the uncontroverted testimony of Claimant was that his then junior partner in the trading team recommended the transaction and handled all aspects of purchase. Finally, as further evidence of the clearly erroneous nature of the Customer's claim, he voluntarily withdrew it and abandoned any claim to a recovery from Respondent or Claimant.

Occurrence Number 1235416

This claim arose when Respondent's internal accounting department informed the Customers that they had been overcharged commissions on the sale of certain mutual funds and were entitled to a refund of the over charges. The overcharges occurred as a result of Respondent having failed to recognize a business corporation owned by the Customers as being their affiliate. The Customers' affiliated corporation had purchased the same mutual funds as the Customers, individually. The collective purchases ("household") entitled all purchasers to receive a discounted commission once a certain "breakpoint" had been achieved. Claimant testified that on the trading platform employed by Respondent, no financial adviser set the commission on sales of mutual funds. Rather, only the volume of mutual fund shares was recorded and the commission on such sale was calculated automatically without input from the financial advisor. The Customers complained that Respondent and Claimant's junior trading

partner had made the mutual fund purchases in such a way as to maximize the commissions received, rather than act in their interest. Respondent denied the claim and no further action was taken by the Customers in connection with the claim. The claim is factually impossible or clearly erroneous since the account was non-discretionary (there was no testimony concerning whether the mutual fund purchases were the result of solicited or unsolicited trades) and all purchases were necessarily initiated or approved by the purchasers in response to a recommendation. The transactions and commissions appeared on the account statements of all entities and no objection was made to the amounts charged. Claimant did not participate in the mutual fund purchases or make recommendations concerning them and was not involved in an investment-related sales practice violation. The claim, allegation, or information is false since the error which resulted in the commission refund was merely the result of a clerical error in failing to group or household the Customers' affiliated corporation with their personal accounts and was discovered and corrected through internal review.

2. 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 Dispute Resolution Services 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(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
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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, which lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) pre-hearing sessions @ \$50.00/session	=\$	150.00
Pre-Hearing Conferences: May 22, 2020	1 session	
September 21, 2020	1 session	
March 16, 2021	1 session	

One (1) hearing session on expungement request @ \$50.00/session	=\$	50.00
Hearing: November 1, 2021	1 session	

Total Hearing Session Fees	=\$	200.00
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The Arbitrator has assessed the total hearing session fees to Claimant.

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

ARBITRATOR

Allan R. Lazor

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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

Allan R. Lazor

Allan R. Lazor
Sole Public Arbitrator

11/04/2021

Signature Date

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November 04, 2021

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