

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Kyle A. Sadler

Case Number: 20-00437

vs.

Respondent
Cambridge Investment Research, Inc.

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

REPRESENTATION OF PARTIES

Claimant Kyle A. Sadler (“Claimant”) appeared pro se.

For Respondent Cambridge Investment Research, Inc. (“Respondent”): Richard H. Kuhlman, Esq. and Jeanette Dennis, Esq., Cambridge Investment Research, Inc., Fairfield, Iowa.

CASE INFORMATION

Statement of Claim filed on or about: February 6, 2020.
Amendment to Statement of Claim filed on or about: April 17, 2020.
Claimant signed the Submission Agreement: February 5, 2020.

Statement of Answer filed on or about: March 19, 2020.
Amended Statement of Answer filed on or about: April 17, 2020.
Respondent signed the Submission Agreement: March 18, 2020.

CASE SUMMARY

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

Unless specifically admitted in the Statement of Answer and Amended Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses. Further, Respondent took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement. In the Amendment to Statement of Claim, Claimant clarified that his request is for expungement of Occurrence Number 1995536.

In the Statement of Answer and Amended Statement of Answer, Respondent requested that all forum fees in this matter be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

On September 29, 2020, Claimant advised that the customer in Occurrence Number 1995536 (“Customer”) was served with the Statement of Claim and notice of the date and time of the expungement hearing (“Notice”). Claimant also filed a copy of the signed USPS signature card for the Notice.

On December 17, 2020, Claimant filed a copy of an email from the Customer supporting the request for expungement.

The Panel conducted a recorded, telephonic hearing on January 12, 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 and Amended Statement of Answer, took no position on the request for expungement.

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

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

The Panel also reviewed the settlement documents, considered the amount of payments made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimant’s testimony and all documents entered into evidence.

AWARD

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

The Panel recommends the expungement of all references to Occurrence Number 1995536 from registration records maintained by the CRD for Claimant Kyle Andrew Sadler (CRD Number 3239144) with the understanding that, pursuant to Notice to Members 04-16, Claimant Kyle Andrew Sadler 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 Panel has made the following Rule 2080 affirmative findings of fact:

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

The claim, allegation, or information is false.

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

The Panel finds that the Customer’s allegations and version of events is not supported by the evidence. The evidence presented during the hearing showed that Claimant had performed a full risk assessment concerning the investments at issue and exercised the necessary due diligence. Claimant and the Customer, on numerous occasions, discussed the investment strategy, portfolio adjustments, and the investment products, and the Customer approved of such. Claimant continually confirmed risks, time horizon, and investment objectives with the Customer, who agreed to the investment strategy. The Customer executed all necessary agreements, expressly approval of the investments at issue. The investments were made in line with the investment strategy, portfolio adjustments, and the investment products to which the Customer had agreed. While the Customer may have been unhappy, there was no evidence of wrongdoing by Claimant. In fact, the Customer stated in an email, dated October 28, 2020, to Claimant that “expungement seems appropriate...” The great preponderance of the evidence presented demonstrated that Claimant acted in accordance with his duties and obligations concerning the Customer’s investments.

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 = \$ 1,575.00

**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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

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| Member Surcharge Fee | = \$ 1,900.00 |
| Member Process Fee | = \$ 3,750.00 |

Late Pre-hearing Cancellation Fees

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

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| May 26, 2020, cancellation requested by parties | = \$ 300.00 |
| October 27, 2020, cancellation requested by parties | = \$ 300.00 |
| Total Late Pre-hearing Cancellation Fees | = \$ 600.00 |

The Panel has assessed \$300.00 of the late pre-hearing cancellation fees to Claimant.

The Panel has assessed \$300.00 of the late pre-hearing cancellation fees to Respondent.

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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

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| One (1) hearing session on expungement request @ \$1,125.00/session | |
| Hearing Date: January 12, 2021 1 session | = \$ 1,125.00 |
| Total Hearing Session Fees | = \$ 1,125.00 |

The Panel has assessed the total hearing session fees to Claimant.

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

ARBITRATION PANEL

| | | |
|----------------------|---|--|
| G. Dennis Sheehan | - | Public Arbitrator, Presiding Chairperson |
| Danielle L. Hargrove | - | Public Arbitrator |
| Oren L. Connaway | - | Non-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

G. Dennis Sheehan

G. Dennis Sheehan
Public Arbitrator, Presiding Chairperson

01/22/2021

Signature Date

Danielle L. Hargrove

Danielle L. Hargrove
Public Arbitrator

01/25/2021

Signature Date

Oren L. Connaway

Oren L. Connaway
Non-Public Arbitrator

01/23/2021

Signature Date

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January 25, 2021

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