

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Gerard Thaddeus Taylor

Case Number: 20-00493

vs.

Respondent

Summit Brokerage Services, Inc.

Hearing Site: Detroit, Michigan

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

For Claimant Gerard Thaddeus Taylor (“Claimant”): Michael Bessette, Esq., HLBS Law, Westminster, Colorado.

For Respondent Summit Brokerage Services, Inc. (“Respondent”): Steven E. Mellen, Esq., Winget, Spadafora & Schwartzberg, LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 12, 2020.

Claimant signed the Submission Agreement: February 11, 2020.

Statement of Answer filed on or about: May 14, 2020.

Respondent signed the Submission Agreement: May 13, 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 did not oppose Claimant’s expungement request and denied any wrongdoing.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1419505, 1732471, and 1979301; compensatory damages in the amount of \$1.00; and any and all other

relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested denial of Claimant's request for \$1.00 in compensatory damages, denial of any other form of relief sought against it, and assessment of all forum costs and fees against Claimant.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

On September 22, 2020, Claimant advised that the customers in Occurrence Numbers 1419505, 1732471, and 1979301 ("Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notices"). On September 29, 2020, Claimant filed an Affidavit confirming that the Customers were served with the Notices. Claimant also filed a copy of the FedEx tracking information available online for the Notices.

The Arbitrator conducted the first recorded, telephonic hearing on November 2, 2020, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the first expungement hearing.

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

On January 12, 2021, Claimant advised that the customer in Occurrence Number 1979301 ("A.M.") was served with notice of the date and time of the second expungement hearing ("Second Notice"). On January 18, 2021, Claimant filed an Affidavit confirming that A.M. was served with the Second Notice. Claimant also filed a copy of the FedEx tracking information available online for the Second Notice.

The Arbitrator conducted a second recorded, telephonic hearing on February 22, 2021, to allow A.M. an opportunity to participate in the expungement hearing.

Respondent did not participate in the second expungement hearing.

A.M. did not participate in the second expungement hearing. The Arbitrator found that A.M. had notice of the second expungement hearing and noted that attempts to reach A.M. during the second hearing were unsuccessful.

After the second expungement hearing, A.M. submitted a statement opposing the request for expungement.

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 1419505 and 1979301 were not settled and, therefore, there were no settlement documents to review.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 1732471, considered the amount of payments made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request. The Arbitrator also noted that the settlement amount was recovered from Claimant through a reduction in his commission earnings. The Arbitrator found that Respondent settled the claim against Claimant's wishes in order to reduce exposure and litigation expenses.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Exhibits 1-4 and Claimant's testimony.

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 197930 and 1732471 from registration records maintained by the CRD for Claimant Gerard Thaddeus Taylor (CRD Number 1748899) with the understanding that, pursuant to Notice to Members 04-16, Claimant Gerard Thaddeus Taylor 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 finding of fact:

The claim, allegation, or information is false.

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

Occurrence Number 1979301

Customer alleged misrepresentation regarding fund performance relating to her investment in unit investment trusts. The Arbitrator finds the allegation is false. Claimant reviewed the product offering with the customer, including giving illustrations of various market performances and the risk of market volatility on the recommended product, prior to her purchase. Claimant also spoke with the customer frequently to discuss the market performance, her fund value, and the volatility. Claimant believed the customer understood the investment product. Subsequently, the customer failed to follow Claimant's recommendation that she wait before liquidating her investment.

Occurrence Number 1732471

The customer alleged unsuitable investments. The customer's complaint centered around an investment in GT Advanced Technologies, a security that had a multimillion-dollar contract with Apple. Shortly after the purchase, GT Advanced Technologies unexpectedly filed for bankruptcy because Apple withdrew its contract. At the time of the investment, it met the customer's long-term investment objectives for moderate growth. The customer had a 13-year relationship with Claimant prior to this event and her account grew substantially over those years. The allegation of unsuitability is false.

2. The Arbitrator recommends the partial expungement of Occurrence Number 1419505 from registration records maintained by the CRD for Claimant Gerard Thaddeus Taylor (CRD Number 1748899) with the understanding that, pursuant to Notice to Members 04-16, Claimant Gerard Thaddeus Taylor 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.

The Arbitrator recommends modifying the allegations stated in Items 4 and 28 under Occurrence Number 1419505 on Claimant Gerard Thaddeus Taylor's CRD registration.

The Arbitrator recommends that Item 4 be modified to state: "Failure to use stop orders."

The Arbitrator recommends that Item 28 be modified to state: "Rep and firm deny allegations."

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:

The customer alleged failure to diversify and failure to use stop orders to prevent losses. The customer transferred in three securities and refused to sell them, notwithstanding Claimant's recommendation. Claimant, thus, attempted to diversify her other funds using unit investment trusts and other high-quality equities. As the market fell overall, stop orders may have prevented some losses. The customer and Claimant were in frequent communication, by Claimant's own admission. While the diversification was likely appropriate, Claimant admitted discussing stop orders with the customer but did not deploy that strategy. The allegation of failure to diversify is false. However, the allegation of failure to use stop orders is true and, therefore, should not be expunged.

3. 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

**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:

Member Surcharge = \$ 150.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

December 18, 2020, postponement requested by Claimant = \$ 50.00

Total Postponement Fees = \$ 50.00

The Arbitrator has assessed the total postponement fees to Claimant.

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:

One (1) pre-hearing session @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: July 13, 2020 1 session

Two (2) hearing sessions on expungement request @ \$50.00/session = \$ 50.00
Hearing: November 2, 2020 1 session
February 22, 2021 1 session WAIVED

Total Hearing Session Fees = \$ 100.00

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

Tracy L. Allen

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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

Tracy L. Allen

Tracy L. Allen
Sole Public Arbitrator

02/23/2021

Signature Date

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.

February 23, 2021

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