

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Jorge G. Silva

Case Number: 20-00510

vs.

Respondent  
J.P. Morgan Securities, LLC

Hearing Site: New York, New York

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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 Jorge G. Silva: Brad S. Maistrow, Esq., Brad S. Maistrow, P.C., New York, New York.

For Respondent J.P. Morgan Securities, LLC: Thomas J. Cahill, Esq., Satterlee Stephens LLP, New York, New York.

**CASE INFORMATION**

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

Jorge G. Silva signed the Submission Agreement: February 12, 2020.

Statement of Answer filed by Respondent on or about: April 22, 2020.

J.P. Morgan Securities, LLC did not sign the Submission Agreement.

**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 asserted various affirmative defenses but did not oppose Claimant’s expungement request.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1996677; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent denied any basis for relief as against it.

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.

Respondent did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and having answered the claim, appeared at the hearing, is bound by the determination of the Arbitrator on all issues submitted.

On September 28, 2020, the customer in Occurrence Number 1996677 provided FINRA Dispute Resolution Services with a written submission in support of Claimant's request for expungement.

On October 14, 2020, Claimant advised that the customer in Occurrence Number 1996677 was 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 March 1, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing did not oppose the request for expungement.

The customer did not participate in the expungement hearing and did not oppose the expungement request. The Arbitrator found that the customer 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 occurrence in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 1996677, considered the amount of payment 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 and that Claimant did not contribute to the settlement amount.

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

## **AWARD**

After considering the pleadings, the testimony and evidence presented at the expungement hearing, 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 Number 1996677 from registration records maintained by the CRD for Claimant Jorge G. Silva (CRD Number 2493270) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jorge G. Silva 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:

The great preponderance of the evidence presented shows that the underlying customer complaint was made against a different broker. Claimant was not assigned as the customer's broker until after the alleged conduct had occurred. Claimant was assigned the customer after Respondent had determined that the customer no longer resided in the United States and so his account was transferred to Claimant to manage, since Claimant was part of the group managing international accounts. He did not correspond or speak to the underlying customer until approximately September 25, 2017. Claimant conveyed the customer's complaint about a prior broker to his superiors in an appropriate time and fashion. When the customer filed his complaint against Respondent, he mentioned complainant in his narrative and therefore Respondent reported the notation. When advised of this expungement request, the underlying customer waived his right to attend the hearing and instead filed a letter with FINRA expressing his full support of the Claimant's request for expungement.

Evidence presented at the expungement hearing led the Arbitrator to believe that the Claimant was not involved in the sales practice violation that was the subject of the filing of the Statement of Claim by the underlying customer. As stated above, Claimant was the successor broker, who reported the customer's complaint about his prior broker's conduct to his superiors. The alleged conduct by the prior broker occurred before Claimant was ever involved in any way with the client.

The facts elicited from Claimant at the hearing and all the exhibits demonstrate that the statement by the underlying customer corroborates that conclusion. The Respondent did

not challenge any of the facts. To the extent the reporting contradicts these conclusions, it was defamatory. The settlement reached between the Respondent and the customer was without the knowledge of Claimant.

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

*\*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 event giving rise to the dispute. Accordingly, as a party, Respondent J.P. Morgan Securities, 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:

Two (2) pre-hearing sessions with a single Arbitrator @ \$50.00/session	= \$ 100.00
Pre-Hearing Conferences: May 26, 2020	1 session
October 9, 2020	1 session

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

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Total Hearing Session Fees	= \$ 150.00
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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**

Patricia Kathleen Costello

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

**Arbitrator's Signature**

***Patricia Kathleen Costello***

Patricia Kathleen Costello  
Sole Public Arbitrator

**03/08/2021**

Signature Date

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March 08, 2021

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