

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Christopher Paul Scalese

Case Number: 20-00715

vs.

Respondent
Kestra Investment Services, LLC

Hearing Site: Philadelphia, Pennsylvania

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 Christopher Paul Scalese: Dochter Kennedy, MBA, J.D., Harris Freedman, Esq., and Michelle Atlas, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Kestra Investment Services, LLC: Richard A. D'Amura, Esq., and Melanie Ryan, Esq., D'Amura & Zaidman, PLLC, Austin, Texas.

CASE INFORMATION

Statement of Claim filed on or about: March 3, 2020.

Christopher Paul Scalese signed the Submission Agreement: March 3, 2020.

Statement of Answer filed by Respondent on or about: March 26, 2020.

Kestra Investment Services, LLC signed the Submission Agreement: March 26, 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 denied the allegations made in the Statement of Claim and took no position on Claimant's expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1685858,

1848282, 1872054, 1974159, 1905839, 1919790, 1710093 and 2006466; 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 requested that no damages be awarded from Respondent and to assess all filing and arbitration fees to 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 September 16, 2021, Claimant advised that the customers in Occurrence Numbers 1685858, 1872054, 1974159, 1905839, 1919790, 1710093 and 2006466 were served with the Statement of Claim and notice of the date and time of the expungement hearing. On September 20, 2021 Claimant filed an Affidavit confirming that the customers were served with the Statement of Claim and notice of the date and time of the expungement hearing. On September 20, 2021, Claimant advised that a public records search of the customer in Occurrence Number 1848282, and customer R in Occurrence Number 1872054 revealed that the customers are deceased. Therefore, the customer in Occurrence Number 1848282 and customer R could not be served.

The Arbitrator conducted a recorded, in-person hearing on October 26, 2021 and a recorded, telephonic hearing on November 24, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearings.

The customers in Occurrence Numbers 1685858, 1872054, 1974159, 1905839, 1919790, 1710093 and 2006466 did not participate in the expungement hearing but the customers in Occurrence Numbers 1872054, 1974159, 1905839, 1919790, and 2006466 submitted letters opposing the expungement request. The Arbitrator found that the customers had notice of the expungement request and hearing.

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. Claimant's request for expungement of Occurrence Numbers 1685858, 1848282, 1872054, 1974159, 1905839, 1919790, 1710093 and 2006466 from registration records maintained by the CRD is denied.
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 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:

April 6-7, 2021, postponement requested by Claimant Waived

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 with a single Arbitrator @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: June 4, 2020 1 session

Two (2) hearing sessions on expungement request @ \$50.00/session = \$ 100.00
Hearings: October 26, 2021 1 session
November 24, 2021 1 session

Total Hearing Session Fees = \$ 150.00

The Arbitrator has assessed \$100.00 of the hearing session fees to Claimant.

The Arbitrator has waived \$50.00 of the hearing session fees.

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

ARBITRATOR

Louis H Miron

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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

Louis H Miron

Louis H Miron
Sole Public Arbitrator

12/17/2021

Signature Date

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December 17, 2021

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