

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
James Richard Azeltine

Case Number: 20-00939

vs.

Respondent
Piper Jaffray, Inc.

Hearing Site: Kansas City, Missouri

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

This case was administered under the Special Proceeding option for simplified cases.

REPRESENTATION OF PARTIES

For Claimant James Richard Azeltine (“Claimant”): Tosh D. Grebenik, Esq., Judex Law, LLC, Broomfield, Colorado.

For Respondent Piper Jaffray, Inc., Piper Sandler & Co. appeared as the real party in interest (“Respondent”): Ann McCague, Esq., Piper Sandler & Co., Minneapolis, Minnesota.

CASE INFORMATION

Statement of Claim filed on or about: March 23, 2020.

Claimant signed the Submission Agreement: May 14, 2020.

Statement of Answer filed on or about: June 16, 2020.

Respondent signed the Submission Agreement: June 17, 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.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 126320 and an award of compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent did not request any relief.

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 October 19, 2020, Claimant advised that the customer in Occurrence Number 126320 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On February 9, 2021, Claimant filed a copy of the USPS tracking information available online for the Notice.

The Arbitrator conducted a recorded, telephonic on February 9, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing.

The Customer did not participate in the expungement hearing. The Arbitrator found that Claimant's efforts to serve the Customer with the Notice were sufficient.

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 was unable to review the settlement documentation. The Arbitrator noted that Claimant submitted correspondence from Respondent, in response to his request for copies for settlement documentation, stating that any documentation had been purged, in accordance with its retention policy. The Arbitrator accepted Claimant's testimony that he was not a party to the settlement and did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony, Claimant's Exhibits 1 and 2, and the USPS tracking information for the Notice.

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:

The Arbitrator recommends the expungement of all references to Occurrence Number 126320 from registration records maintained by the CRD for Claimant James Richard Azeltine (CRD Number 1728514) with the understanding that, pursuant to Notice to

Members 04-16, Claimant James Richard Azeltine 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; and

The claim, allegation, or information is false.

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

The Customer's complaints arose out a non-discretionary margin account that was heavily invested in bonds. The Customer directed all trades and the frequency of trades. Claimant had no control over the trades. Claimant advised the Customer of all the risks of said trades, and the bonds were suitable for the Customer's investment objective of income. The Customer was fully apprised of all trades by confirmation sheets and monthly statements from Respondent. The Customer's accountant was also advised of all trades. The Customer realized gains and sustained no damages. Further, Claimant did not have the licenses necessary to supervise accounts. Thus, there is no basis for any of the Customer's claims.

The Customer requested in August 1990 that Claimant open a margin account for him, utilizing the securities he already had in his brokerage account. After reviewing the new margin account forms, which set forth the risks and acknowledged that the account was non-discretionary, the Customer opened the margin account in September 1990. The Customer made approximately four trades a month, most of which were unsolicited. Claimant would answer any of the Customer's questions and provide prospectuses to the Customer. The Customer was fully apprised of the nature and frequency of these investments. In May 1994, the Customer liquidated his account, despite Claimant's recommendation that he hold on to the stocks in his margin account because the stocks would trade significantly higher if he waited. At the time the Customer closed the account, he had already realized significant gains of in addition to a non-income check.

The Customer's claims are clearly erroneous and false because the Customer directed all of the trades in question, he and his accountant were fully apprised of the risks of each investment, the Customer sustained no damages, no fraudulent or negligent actions were taken by Claimant, no duty was breached by Claimant, the bonds were suitable, and Claimant was not a supervisor.

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 Fee = \$ 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:

One (1) pre-hearing session @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: September 23, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: February 9, 2021 1 session

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

John R. Loss - 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

John R. Loss

John R. Loss
Sole Public Arbitrator

02/18/2021

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 18, 2021

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