

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Nicholas George Tsikitas

Case Number: 20-01132

vs.

Respondent
J.D. Nicholas & Associates, Inc.

Hearing Site: New York, New York

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 Nicholas George Tsikitas: Irwin Weltz, Esq., Weltz Kakos Gerbi Wolinetz Volynsky LLP, Mineola, New York.

Respondent J.D. Nicholas & Associates, Inc. did not enter an appearance.

CASE INFORMATION

Statement of Claim filed on or about: April 6, 2020.

Nicholas George Tsikitas signed the Submission Agreement: April 6, 2020.

Respondent J.D. Nicholas & Associates, Inc. did not file a Statement of Answer or 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”).

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1934687 and compensatory damages in the amount of \$1.00.

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 is bound by the determination of the Panel on all issues submitted.

On October 16, 2020, Claimant advised that the customer in Occurrence Number 1934687 was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on December 21, 2020 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 also did not participate in the expungement hearing. 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 documents, 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 noted that Claimant contributed to the settlement amount. However, expungement is still warranted as the settlement was for nuisance and legal cost savings purposes by the Claimant, who was named in the complaint although he was not alleged to have been involved in any way with the behavior complained of.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony, correspondence between Respondent and the customer, the brokerage documents signed by the customer, and Claimant's proof of service.

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 claim for \$1.00 in compensatory damages is denied.
2. The Arbitrator recommends the expungement of all references to Occurrence Number 1934687 from registration records maintained by the CRD for Claimant Nicholas George Tsikitas (CRD Number 2871712) with the understanding that, pursuant to Notice to Members 04-16, Claimant Nicholas George Tsikitas 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 registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

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

Having reviewed the exhibits and correspondence filed in this matter, and having heard the evidence on oath of Nicholas George Tsikitas, the Arbitrator found there is no evidence that the Claimant was ever involved with the matters complained of, or ever dealt with any of the customer’s securities.

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.D. Nicholas & Associates, Inc. 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:

One (1) pre-hearing session with a single Arbitrator @ \$50.00/session = \$ 50.00
Pre-hearing Conference: August 11, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing Date: December 21, 2020 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

Richard Gee

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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

Richard Gee

Richard Gee
Sole Public Arbitrator

01/19/2021

Signature Date

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January 20, 2021

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