

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

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In the Matter of the Arbitration Between:

Claimant  
William Paul Fauzio

Case Number: 20-01281

vs.

Respondents  
Capital Financial Services, Inc.  
Questar Capital Corporation

Hearing Site: Hartford, Connecticut

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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. Members

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

**REPRESENTATION OF PARTIES**

For Claimant William Paul Fauzio: Jennifer P. Farrar, Esq., Farrar Law PLLC, Tomball, Texas.

For Respondent Capital Financial Services, Inc. (“CFS”): Gordon Dihle, Esq., Corporate Legal, LLC, Agate, Colorado.

For Respondent Questar Capital Corporation (“Questar”): Katherine C. Donlon, Esq., Johnson, Cassidy, Newlon & DeCort, P.A., Tampa, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: April 22, 2020.

Amended Statement of Claim filed on or about: August 10, 2021.

Corrected Amended Statement of Claim filed on or about: August 20, 2021.

William Paul Fauzio signed the Submission Agreement: May 28, 2020.

Statement of Answer filed by Respondent CFS on or about: December 2, 2021.

CFS signed the Submission Agreement: February 15, 2022.

Statement of Answer filed by Respondent Questar on or about: August 19, 2020.

Questar signed the Submission Agreement: August 18, 2020.

### **CASE SUMMARY**

In the Corrected Amended 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 CFS objected to Claimant’s expungement request.

In the Statement of Answer, Respondent Questar took no position on Claimant’s expungement request.

### **RELIEF REQUESTED**

In the Corrected Amended Statement of Claim, Claimant requested expungement of Occurrence Numbers 1459200; 1707408; 1651209; 1707407; and 1255346; compensatory damages in the amount of \$1.00 from Respondents; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent CFS requested that Claimant be awarded nothing; that Claimant’s claim should be denied in its entirety; and that all the fees and costs of the arbitration and CFS’ attorneys’ fees and costs of defending this arbitration be assessed to Claimant.

In the Statement of Answer, Respondent Questar did not object to Claimant’s request for expungement and requested that Claimant’s claim for monetary relief be denied.

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 June 24, 2021, Claimant advised that the customers in Occurrence Numbers 1707407, 1707408, and 1255346 (“Customers”) were served with the Statement of Claim and notice of the date and time of the expungement hearing. On January 31, 2022, Claimant filed a Declaration confirming that the Customers were served with the notice of the date and time of the expungement hearing.

By correspondence dated July 13, 2021, Claimant notified FINRA Dispute Resolution Services that the customers in Occurrence Numbers 1459200 and 1651209 are deceased.

The Arbitrator conducted a recorded, telephonic hearing on January 31, 2022, so the parties could present oral argument and evidence on Claimant’s request for expungement.

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

Respondent Questar also participated in the expungement hearing and as stated in the Statement of Answer, did not oppose the request for expungement.

The Customers did not participate in the expungement hearing. The customer in Occurrence Number 1707407 did not object to Claimant's request for expungement. The Arbitrator found that the Customers 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 occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Numbers 1651209, 1707407, 1707408, 1459200, and 1255346, considered the amount of payment made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to the settlement amounts in Occurrence Numbers 1707408, 1651209, and 1707407. Although Claimant contributed to the settlement amounts in Occurrence Numbers 1459200 and 1255346, expungement is justified under the circumstances because: 1) the facts demonstrate that Claimant was an innocent actor that was not responsible for the misconduct claimed in either instance, and 2) Claimant exercised the appropriate level of care toward the customer in each situation.

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

### **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 Number 1707407 from registration records maintained by the CRD for Claimant William Paul Fauzio (CRD Number 2193834) with the understanding that, pursuant to Notice to Members 04-16, Claimant William Paul Fauzio 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 complaint relates to an investment in DBSI, Inc., a real estate investment management company. The allegation was that the investor was misled into investing in what was determined, at least in the later years of operation, to be a fraudulent Ponzi scheme where DBSI had insufficient funds to meet its obligations, and that there was negligence related to the due diligence in determining that this was a suitable investment. The evidence presented at the hearing was sufficient to establish that neither Questar, the broker-dealer that approved the investment, conducted the due diligence and offered the investment for sale, nor Claimant, the registered representative, had any knowledge of the fraud or wrongdoing at DBSI at the time. Moreover, it was clear that Questar, not Claimant, was responsible for conducting due diligence as to the suitability of the investment and offered it as an approved investment. Based on this evidence, Claimant was not involved in the misconduct and the claim against him is false. Accordingly, expungement is appropriate under FINRA Rule 2080. It should also be noted that the claim is also factually impossible and clearly erroneous because the customer did not make this investment in her own right but only pursuant to a Power of Attorney for another customer. It is the Arbitrator's finding that there is no meaningful investor protection or regulatory value in allowing this claim to remain on Claimant's CRD record.

2. The Arbitrator recommends the expungement of all references to Occurrence Numbers 1651209, 1707408, and 1459200 from registration records maintained by the CRD for Claimant William Paul Fauzio (CRD Number 2193834) with the understanding that, pursuant to Notice to Members 04-16, Claimant William Paul Fauzio 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 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 allegations relate to investments in DBSI, Inc., a real estate investment management company. The allegations in each instance were essentially the same, i.e. 1) that these investors were misled into investing in what was determined, at least in the later years of operation, to be a fraudulent Ponzi scheme where DBSI had insufficient funds to meet its obligations, and 2) that there was negligence related to the due diligence in determining that this was a suitable investment. The evidence presented at the hearing was sufficient to establish that neither Questar, the broker-dealer that approved the investment, conducted the due diligence and offered the investment for sale, nor Claimant, the registered representative, had any knowledge of the fraud or wrongdoing at DBSI at the time. Moreover, it was clear that Questar, not Claimant, was responsible for conducting due diligence as to the suitability of the investment and offered it as an

approved investment. Based in this evidence, Claimant was not involved in the misconduct and the claim against him is false. Accordingly, expungement is appropriate under FINRA Rule 2080. It is the Arbitrator's finding that there is no meaningful investor protection or regulatory value in allowing these claims to remain on Claimant's CRD record.

3. The Arbitrator recommends the expungement of all references to Occurrence Number 1255346 from registration records maintained by the CRD for Claimant William Paul Fauzio (CRD Number 2193834) with the understanding that, pursuant to Notice to Members 04-16, Claimant William Paul Fauzio 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 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 findings based on the following reasons:

The uncontradicted evidence at the hearing showed beyond a preponderance that the customer wanted to sell an annuity investment he previously entered into to avoid rapidly growing losses at a time of turmoil in the financial markets where his investment had none of the separate guarantees offered by other annuity providers. The objective was to put the investment in another annuity that had guarantees to protect against market decline. As time was of the essence to avoid further losses, the investment was sold rather than taking the additional time to set up a tax-free exchange. This was done based on the representation of the representative who sold the investor the earlier annuity that there was only de minimis gain to be concerned about. Thus, there was no investor-related sales practice at issue and the alleged complaint relating to tax consequences was based on the action of another individual and not Claimant. Accordingly, this occurrence record should be expunged because the claim against Claimant is clearly erroneous and he was not involved in the alleged misconduct. It is the Arbitrator's finding that there is no meaningful investor protection or regulatory value in allowing this claim to remain on Claimant's CRD record.

4. 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 person at the time of the events giving rise to the dispute. Accordingly, as parties, Respondents CFS and Questar are each assessed the following:

Member Surcharge = \$ 150.00

**Postponement Fees**

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

January 25, 2021, postponement by Claimant Waived

July 19, 2021, postponement requested by Claimant = \$ 50.00

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Total Postponement Fees = \$ 50.00

The Arbitrator has assessed the total postponement fees to Claimant.

**Last-Minute Cancellation Fees**

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

January 25, 2021, cancellation requested by Claimant Waived

July 19, 2021, cancellation requested by Claimant = \$ 600.00

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Total Last-Minute Cancellation Fees = \$ 600.00

The Arbitrator has assessed the total last-minute cancellation 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 with a single Arbitrator @ \$50.00/session = \$ 50.00  
Pre-Hearing Conference: October 19, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: January 31, 2021 1 session		
<hr/> 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**

Mark Stuart Gurevitz

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Sole Non-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**

***Mark Stuart Gurevitz***

Mark Stuart Gurevitz  
Sole Non-Public Arbitrator

***02/16/2022***

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 17, 2022

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