

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Arthur Willard Lewis

Case Number: 20-01513

vs.

Respondents
CIBC World Markets Corp.
Oppenheimer & Co., Inc.
Aegis Capital Corp.

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Claimant Arthur Willard Lewis (“Claimant”): Joshua A. Katz, Esq., James D. Sallah, Esq., and Joshua F. Bautz, Esq., Sallah Astarita & Cox, LLC, Boca Raton, Florida.

For Respondent CIBC World Markets Corp. (“CIBC”): Elizabeth Rose Aylett, Esq., CIBC World Markets Corp., New York, New York.

For Respondent Oppenheimer & Co., Inc. (“Oppenheimer”): Justin D. Dickinson, Esq., Oppenheimer & Co, Inc., New York, New York.

For Respondent Aegis Capital Corp. (“Aegis”): Timothy Treble, Aegis Capital Corp., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: May 13, 2020.

Claimant signed the Submission Agreement: May 12, 2020.

Statement of Answer filed by Respondent CIBC on or about: June 30, 2020.

CIBC World Markets Corp. signed the Submission Agreement: June 30, 2020.

Statement of Answer filed by Respondent Oppenheimer on or about: July 7, 2020.

Oppenheimer & Co., Inc. signed the Submission Agreement: July 22, 2020.

Respondent Aegis did not file a Statement of Answer and did not sign the Submission Agreement.

Amended Statement of Claim filed on or about: February 3, 2021.
Claimant signed the Amended Submission Agreement: February 9, 2021.

CASE SUMMARY

In the Statement of Claim, as amended, 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 CIBC took no position on Claimant's expungement request.

In the Statement of Answer, Respondent Oppenheimer did not oppose Claimant's expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 314747 ("Customer A"), 1346422 ("Customer B"), 1346418 ("Customers C"), and 1551826 ("Customer D"); and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent CIBC requested that Claimant's request for \$1.00 in damages be denied, and that all forum and hearing session fees be assessed against Claimant.

In the Statement of Answer, Respondent Oppenheimer opposed any monetary damages demands either explicitly or implicitly stated by Claimant in Claimant's Statement of Claim.

In the Amended Statement of Claim, Claimant reaffirmed his prior relief requests, and requested expungement of Occurrence Number 2081665 ("Customer E").

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 January 15, 2021, Claimant filed an Unopposed Motion for Leave to File an Amended Statement of Claim for the sole purpose of including Aegis as a Respondent so that Claimant could request expungement of an additional occurrence number arising from when Claimant was associated with Respondent Aegis, which the Chairperson granted by way of Order on February 3, 2021.

On February 5, 2021, Aegis filed with FINRA Dispute Resolution Services a notice stating that it does not oppose Claimant's request for expungement.

Respondent Aegis did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure (“Code”) is bound by the determination of the Arbitrator on all issues submitted.

On February 5, 2021, Claimant advised that the customers in Occurrence Numbers 314747, 1346422, 1346418, 1551826, and 2081665 (“Customers”) were 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 February 9, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondents CIBC, Oppenheimer, and Aegis did not participate in the expungement hearing and did not oppose the request for expungement.

The Customers did not participate in the expungement hearing. On February 5, 2021, Customer D (Occurrence Number 1551826) submitted a written notice of opposition to the expungement request stating her belief that Claimant breached his fiduciary responsibility and did not do his job. 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 1346422, 1346418, 1551826, and 2081665, 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.

The Arbitrator noted that the dispute related to Occurrence Number 314747 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the exhibits and Claimant’s CRD record.

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 Numbers 314747, 1346422, 1346418, 1551826, and 2081665 from registration records maintained by the CRD for Claimant Arthur Willard Lewis (CRD Number 1438899) with the understanding that, pursuant to Notice to Members 04-16, Claimant Arthur Willard Lewis 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 claim, allegation, or information is false.

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

Occurrence Number 314747:

Customer A asserted that Claimant recommended the purchase of a corporate bond in Customer A’s account when Customer A actually wanted a government bond. However, the Arbitrator found this assertion to be false. In fact, Customer A withdrew his complaint and held the bond to maturity. Further, Claimant testified that Customer A’s purchase of the corporate bond was consistent with the customer’s investment objective. Therefore, the Arbitrator finds this claim to be false, and thus the Arbitrator recommends the expungement of this matter from Claimant’s record because Rule 2080(b)(1)(C) has been satisfied.

Occurrence Number 1346422 (Case Number 07-00796):

The complaint in this matter dates back to 2007. Claimant was not the investment advisor for the accounts at issue. Customer B was an employee of Qtera, which was acquired by Nortal in 2000, and Customer B received a large amount of stock options in Nortal stock. Customer B asserted that he did not want to diversify. Customer B’s complaint was brought approximately six years after Nortal stock lost its value. Claimant testified at the hearing that the investments fit the investor profile for Customer B. The broker, under the supervision of Claimant, held seminars on diversification, money management, and financial planning. Customer B desired to retain a concentrated position in Nortal and would not diversify. The broker had a relationship with Qtera. The case was settled for far less than what Customer B was seeking, and Claimant did not contribute to the settlement. Therefore, the Arbitrator finds this claim to be false, and thus the Arbitrator recommends the expungement of this matter from Claimant’s record because Rule 2080(b)(1)(C) has been satisfied.

Occurrence Number 1346418 (Case Number 07-00799):

The claims asserted in this matter by Customers C are the same as those asserted by Customer B in Occurrence Number 1346422. The case was settled for far less than what Customers C were seeking, and Claimant did not contribute to the settlement. The claims of Customers C were withdrawn. Therefore, the Arbitrator finds this claim to be false, and thus the Arbitrator recommends the expungement of this matter from Claimant’s record because Rule 2080(b)(1)(C) has been satisfied.

Occurrence Number 1551826:

Claimant was not the broker on Customer D’s account. However, Claimant was the supervisor of the broker of record, and thus Claimant was named in his supervisory role. Customer D’s complaint was that there were unauthorized trades on her account. Claimant testified that the firm matched phone records that established calls were made to Customer D on the dates the investments were made. The case was settled for far less than what Customer D was seeking, and Claimant did not contribute to the settlement. Therefore, the Arbitrator finds this claim to be false, and thus the Arbitrator recommends the expungement of this matter from Claimant’s record because Rule 2080(b)(1)(C) has been satisfied.

Occurrence Number 2081665 (Case Number 20-02018):

In this case, Customer E purchased a private placement in GPB Automotive. Customer E claimed that Respondent Aegis did not conduct adequate due diligence. Claimant was not named in the arbitration action. Claimant testified that Claimant reviewed documents with Customer E, and Claimant discussed the risks with Customer E. The case was settled for far less than what Customer E was seeking, and Claimant did not contribute to the settlement. Therefore, the Arbitrator finds this claim to be false, and thus the Arbitrator recommends the expungement of this matter from Claimant’s record because Rule 2080(b)(1)(C) has been satisfied.

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 firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as parties, Respondents CIBC, Oppenheimer, and Aegis are each 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: September 10, 2020	1 session		
One (1) hearing session on expungement request @ \$50.00/session		= \$	50.00
Hearing: February 9, 2021	1 session		
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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 C. Perry

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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

Mark C. Perry

Mark C. Perry
Sole Public Arbitrator

03/26/2021

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.

March 29, 2021

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