

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Joon Rhee

Case Number: 20-01701

vs.

Respondent
Continental Broker-Dealer Corp.

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

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

REPRESENTATION OF PARTIES

For Claimant Joon Rhee: Craig Riha, Esq., Carmel, Milazzo, and Feil, LLP, Bohemia, New York.

Respondent Continental Broker-Dealer Corp. did not appear.

CASE INFORMATION

Statement of Claim filed on or about: May 29, 2020.

Joon Rhee signed the Submission Agreement: May 29, 2020.

Respondent did not file a Statement of Answer and did not 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 1177327; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deems just and equitable.

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 Arbitrator on all issues submitted.

Respondent did not file a Statement of Answer. The certified mailing card containing directions to register on the Dispute Resolution Portal and gain access to the case was signed by Respondent on August 25, 2020. Additionally, on July 27, 2020, Respondent signed the certified mailing card containing ranking forms, notice that no Statement of Answer had been filed and the potential consequences thereof, and information regarding the consequences of not registering for the Portal. Therefore, the Arbitrator determined that Respondent was notified of the claim at issue.

On July 6, 2021, Claimant filed an Affirmation of Attempted Service confirming that despite repeated attempts to serve the Customer in the underlying occurrence (“Customer”), Claimant was unable to serve the Customer with the Statement of Claim or notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on July 7, 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 also did not participate in the expungement 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.

On January 28, 2021, Claimant’s counsel filed with FINRA Dispute Resolution Services a letter asserting that he conferred with both Claimant, as well as Respondent’s former Chief Compliance Officer, in an attempt to obtain the Settlement Agreement in connection with Occurrence Number 1177327 between the Customer and Respondent, but both stated the Settlement Agreement was no longer in their possession and not available. Claimant’s counsel further asserted that upon information and belief, the Settlement Agreement was destroyed years ago with all of Respondent’s former records at the direction of its bankruptcy Trustee. The Arbitrator noted that the settlement was between the Customer and Respondent and determined that reasonable efforts had been made to locate the settlement agreement.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: testimony from Claimant; and testimony from Respondent’s former supervisor of compliance at the time of the actions giving rise to the Customer’s claim.

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 1177327 from registration records maintained by the CRD for Claimant Joon Rhee (CRD Number 2167218) with the understanding that, pursuant to Notice to Members 04-16, Claimant Joon Rhee 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:

Evidence from Claimant and Respondent's former supervisor of compliance, corroborates that Claimant took over the original Customer's account and, therefore, was named in the original complaint only because Claimant succeeded to the account upon a prior broker's passing. The testimony corroborates that Claimant did not handle the account during the time addressed in the underlying original complaint, but that the prior (deceased) broker did.

3. 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
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**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(s) that employed the associated person(s) at the time of the event(s) giving rise to

the dispute. Accordingly, as a party, Respondent Continental Broker-Dealer Corp. is assessed the following:

Member Surcharge = \$ 150.00

Late Pre-Hearing Cancellation Fees

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

December 8, 2020, cancellation requested by Claimant = \$ 100.00

Total Late Pre-Hearing Cancellation Fees = \$ 100.00

The Arbitrator has assessed \$50.00 of the late pre-hearing cancellation fees to Claimant.

The Arbitrator has assessed \$50.00 of the late pre-hearing cancellation fees to Respondent.

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:

Two (2) pre-hearing sessions with a single Arbitrator @ \$50.00/session = \$ 100.00
Pre-Hearing Conferences: January 4, 2021 1 session
March 2, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: July 7, 2021 1 session

Total Hearing Session Fees = \$ 150.00

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

Thomas M. Madden

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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

Thomas M. Madden

Thomas M. Madden
Sole Public Arbitrator

07/26/2021

Signature Date

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July 26, 2021

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