

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Philip Dandridge Weyhe

Case Number: 20-01736

vs.

Respondent
Barclays Capital 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 Philip Dandridge Weyhe: Dochter Kennedy, J.D., MBA, and Frances Menzer, J.D., AdvisorLaw LLC, Westminster, Colorado.

For Respondent Barclays Capital Inc.: G. Wayne Hills, Jr., Esq., Parker, Hudson, Rainer & Dobbs LLP, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on or about: June 2, 2020.

Philip Dandridge Weyhe signed the Submission Agreement: June 2, 2020.

Statement of Answer filed by Respondent on or about: September 4, 2020.

Barclays Capital Inc. 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”).

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 118349, 118354, 1112576, and 1225313; a deletion of all Disclosure Reporting Pages corresponding

with Occurrence Numbers 118349, 118354, 1112576, and 1225313; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent denied Claimant's request for \$1.00 in compensatory damages.

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 13, 2021, Claimant advised that the customer in Occurrence Number 1225313 is now deceased. Claimant provided documentation noting that the customer passed on July 12, 2008. Therefore, the customer was not served with the Statement of Claim or notice of the date and time of the expungement hearing.

On February 23, 2021, Claimant advised that the customers in Occurrence Numbers 118349, 118354, and 1112576 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 March 8, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate 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 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.

On March 25, 2021, Claimant advised that the settlement agreements related to Occurrence Numbers 118349, 118354, and 1112576 could not be located and Respondent confirmed in writing that it did have the settlement documents. During the evidentiary hearing, Claimant testified that he was not involved personally in the settlements. The Arbitrator found that expungement is still appropriate.

Based on Claimant's testimony, the Arbitrator noted that the settlements relating to Occurrence Numbers 118349, 118354, and 1112576 were not conditioned on any party to the settlements not opposing the expungement request. The Arbitrator also noted that Claimant did not contribute to the settlement amounts in Occurrence Numbers 118354 and 1112576.

The Arbitrator noted that Claimant contributed to the settlement amount in Occurrence Number 118349. The Arbitrator found that expungement is still appropriate for the following reasons:

Claimant testified that he had nothing to do with this decision and that the amount was deducted from his account when he left the firm. Claimant claimed that he did not negotiate the settlement; it was done by his prior firm. Based upon the testimony and failure of participation by any of the other parties, the Arbitrator determined that expungement of this occurrence is still appropriate.

The Arbitrator noted that the dispute related to Occurrence Number 1225313 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 pleadings; exhibits; Claimant's post-hearing submission; Claimant's BrokerCheck® Report, and Claimant's testimony.

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 118349 from registration records maintained by the CRD for Claimant Philip Dandridge Weyhe (CRD Number 1026916) with the understanding that, pursuant to Notice to Members 04-16, Claimant Philip Dandridge Weyhe 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:

This claim was brought on behalf of a mother/daughter account. The customers alleged improper trading by Claimant. This matter was settled for \$14,000, and the payment was debited from Claimant's account. Claimant testified, without contradiction, that he had left the firm and this money was deducted without his involvement or authorization. All payments or settlement on the claims must be weighted carefully especially in expungement cases. Since no testimony to the contrary was received, the record supports Claimant that he paid the settlement as part of his leaving the firm and that he was not involved in the settlement or payment terms.

Based upon the testimony on the record, there is no support for a finding of unauthorized trading by Claimant.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 118354 from registration records maintained by the CRD for Claimant Philip Dandridge Weyhe (CRD Number 1026916) with the understanding that, pursuant to Notice to Members 04-16, Claimant Philip Dandridge Weyhe 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, 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:

This account, along with the others, was non-discretionary. There are no facts on the record that support a charge of unauthorized trading.

There is also no support on the record for any of the allegations against Claimant. No evidence was presented to support any claims of improper conduct. The customer had been Claimant's dentist. In addition to working with Claimant, the customer solicited certain equity investments himself. The customer had an aggressive growth profile and risk tolerance. No record evidence was presented to support any of the customer's claims. The matter was settled for \$15,000 and not paid by Claimant. Since there is no evidence on the record to support these allegations, this charge should be expunged.

3. The Arbitrator recommends the expungement of all references to Occurrence Number 1112576 from registration records maintained by the CRD for Claimant Philip Dandridge Weyhe (CRD Number 1026916) with the understanding that, pursuant to Notice to Members 04-16, Claimant Philip Dandridge Weyhe 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, 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:

The customer was Claimant's client at Chase. He transferred his accounts to Lehman Brothers when Claimant became registered at that firm. The customer worked in the technology field and guided his own investment decisions. He also maintained a commodity trading account and engaged in speculative trading practices. Claimant

cautioned against these practices, but his advice was apparently ignored. Claimant also recommended using stop loss order to hedge against declines in the market. All orders were discussed with the customer before they were executed. Thus, the allegation that stop loss orders were not executed are clearly erroneous and false.

Claimant testified credibly that he did not make improper investment recommendations. The matter was settled by his former employer, Lehman Brothers, in 2006 without Claimant's involvement or contribution. Based upon the uncontested record evidence, this claim should be expunged.

4. The Arbitrator recommends the expungement of all references to Occurrence Number 1225313 from registration records maintained by the CRD for Claimant Philip Dandridge Weyhe (CRD Number 1026916) with the understanding that, pursuant to Notice to Members 04-16, Claimant Philip Dandridge Weyhe 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, 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:

A claim of unsuitability was filed. It was denied by Claimant's former employer, Lehman Brothers, and not pursued further. Based upon Claimant's credible testimony, this claim should be expunged. It does not appear to be credible based upon the record testimony. No money was paid in settlement on this matter.

The customer became Claimant's client in 2000. The customer was an experienced investor, and his objective was growth with income as a secondary objective. He had a high-risk tolerance and no liquidity needs. Based upon his profile, Claimant recommended a MAP or Manager Access Program. This was a managed account and not managed by Claimant. Claimant was not involved with the trading in this account. After only four months, the customer liquidated the account. He was no longer Claimant's client at that time. The complaint of suitability was evaluated by Lehman Brothers who denied the claim. The customer did not pursue it further. Thus, based upon the record evidence and Claimant's testimony, the claims are false and clearly erroneous. Accordingly, expungement of this charge should be granted.

5. 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 firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent Barclays Capital Inc. is assessed the following:

Member Surcharge	=\$	150.00
------------------	-----	--------

Postponement Fees

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

November 30, 2020, postponement requested by Claimant	=\$	50.00
---	-----	-------

Total Postponement Fees	=\$	50.00
-------------------------	-----	-------

The Arbitrator has assessed the total postponement 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) hearing session on expungement request @ \$50.00/session	=\$	50.00
Hearing: March 8, 2021 1 session		

Total Hearing Session Fees	=\$	50.00
----------------------------	-----	-------

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

Roger B. Jacobs

-

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

Roger B. Jacobs

Roger B. Jacobs
Sole Public Arbitrator

03/29/2021

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)