

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

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In the Matter of the Arbitration Between:

Claimant  
Brian Keith Moon

Case Number: 20-01933

vs.

Respondent  
SCF Securities, Inc.

Hearing Site: Dallas, Texas

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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. Member

**REPRESENTATION OF PARTIES**

For Claimant Brian Keith Moon (“Claimant”): Gregory B. Simon, Esq., Gregory B. Simon Law, LLC, Chicago, Illinois.

For Respondent SCF Securities, Inc. (“Respondent”): Gary S. Kessler, Esq. and Bryon L. Romine, Esq., Kessler Collins, PC, Dallas, Texas.

**CASE INFORMATION**

Statement of Claim filed on or about: June 18, 2020.  
Amended Statement of Claim filed on or about: October 22, 2020.  
Claimant signed the Submission Agreement: June 18, 2020.

Statement of Answer filed on or about: August 21, 2020.  
Statement of Answer to Amended Statement of Claim filed on or about: November 10, 2020.  
Respondent signed the Submission Agreement: July 13, 2020.

**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”). Further, Claimant asserted a claim alleging that the Form U5 filed by Respondent, as part of his registration records maintained by the CRD, is defamatory in nature.

In the Statement of Answer, Respondent did not oppose Claimant’s request for expungement of customer dispute information; however, it did oppose Claimant’s request for expungement of his Form U5.

In the Amended Statement of Claim, Claimant only asserted his claim seeking expungement of customer dispute information from registration records maintained by the CRD.

In the Statement of Answer to Amended Statement of Claim, Respondent reasserted that it did not oppose Claimant's request for expungement of customer dispute information.

### **RELIEF REQUESTED**

In the Amended Statement of Claim, Claimant requested expungement of Occurrence Number 2036213, compensatory damages in the amount of \$1.00, and such other and additional relief that the Arbitrator deems just and equitable. Claimant removed his request for expungement of his Form U5.

In the Statement of Answer to Amended Statement of Claim, Respondent requested any and all relief to which it may show itself justly entitled.

At the hearing, Claimant withdrew the request for \$1.00 in compensatory damages.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On October 9, 2020, during the Initial Pre-Hearing Conference, the Arbitrator granted Claimant's oral request to withdraw the request for expungement of his Form U5. In an Order dated the same day, the Arbitrator ordered Claimant to file an Amended Statement of Claim.

On January 28, 2021, Claimant advised that the customers in Occurrence Number 2036213 ("Customers") were served with the Amended Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). Claimant filed a copy of the FedEx tracking information available online for the Notice.

The Arbitrator conducted a recorded, telephonic hearing on March 2, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent 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 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 occurrence in the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 2036213 was not settled and, therefore, there was no settlement documentation to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, Claimant's testimony, and Claimant's Pre-Expungement Hearing Submission.

### **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 2036213 from registration records maintained by the CRD for Claimant Brian Keith Moon (CRD Number 4232771) with the understanding that, pursuant to Notice to Members 04-16, Claimant Brian Keith Moon 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 factually impossible or clearly erroneous.

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

Claimant presented an abundance of evidence to dispute the Customers' complaint, including an explanation of all of the documents signed by the Customers and documentation of contact with the Customers on a regular basis. Claimant demonstrated that he went beyond Respondent's requirements to ensure the Customers understood the risks associated with trading options. Further, Respondent's Chief Compliance Officer ("CCO") reviewed the Customers' complaint and all of the documentation related to their account and concluded that Claimant had implemented a plan, to which the Customers had agreed, that was consistent with their risk tolerance and with their wish to trade options. In the written response to the Customers' complaint, the CCO stated: "I have reviewed the actual losses in the accounts which occurred in 2016 and 2017 and they do not approach the magnitude you state in your letter. I am hopeful that once you review the statements that were sent you [sic] a few days ago you will agree." The Customers did not pursue their complaint.

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 persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge Fee = \$ 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 @ \$50.00/session = \$ 50.00  
Pre-Hearing Conference: October 9, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00  
Hearing: March 2, 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**

C. Sumpter Logan

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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**

***C. Sumpter Logan***

C. Sumpter Logan  
Sole Public Arbitrator

**03/12/2021**

Signature Date

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March 12, 2021

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