

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Michael John Zoitas

Case Number: 20-02008

vs.

Respondent
Newbridge Securities 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 Michael John Zoitas: Tosh Grebenik, Esq., Judex Law, LLC, Broomfield, Colorado.

For Respondent Newbridge Securities Corp.: Gregg J. Breitbart, Esq., Kaufman Dolowich & Voluck LLP, Fort Lauderdale, Florida.

CASE INFORMATION

Amended Statement of Claim filed on or about: July 16, 2020.

Michael John Zoitas signed the Submission Agreement: June 24, 2020.

Statement of Answer filed by Respondent on or about: September 8, 2020

Newbridge Securities Corp. signed the Submission Agreement: September 9, 2020.

CASE SUMMARY

In the 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 did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Amended Statement of Claim, Claimant requested: expungement of Occurrence Numbers

1560097 and 1608601; and compensatory damages in the amount of \$1.00 from Respondent.

In the Statement of Answer, Respondent requested that all FINRA processing and forum fees are assessed to Claimant.

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.

A Statement of Claim was filed on June 25, 2020. It was not served on Respondent and not considered by the Arbitrator.

On May 17, 2020, Claimant advised that the customers in Occurrence Numbers 1560097 and 1608601 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 May 18, 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 occurrences in the CRD.

The Arbitrator was unable to review settlement documentation related to Occurrence Number 1608601, as the event took place approximately 10 years ago and it was destroyed pursuant to the Respondent's retention policy. Respondent's representative testified, under oath, that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement payment amount.

The Arbitrator noted that the dispute related to Occurrence Number 1560097 was not settled and, therefore, there were no settlement documents to review.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the recorded 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 1560097 from registration records maintained by the CRD for Claimant Michael John Zoitias (CRD Number 4092866) with the understanding that, pursuant to Notice to Members 04-16, Claimant Michael John Zoitias 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 claim, allegation, or information is false.

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

The customer was an experienced trader of both stock and options with accounts at several brokerage firms. The account was not discretionary with all trades made by the customer and confirmed by an order confirmation and monthly statements. As a result of the great recession, some of the positions in the account were down. The bulk of the positions were up and the account remained up. The customer made a complaint about the securities that were down which was investigated by Respondent and denied. No further action was taken by the customer who kept the account with Respondent.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1608601 from registration records maintained by the CRD for Claimant Michael John Zoitias (CRD Number 4092866) with the understanding that, pursuant to Notice to Members 04-16, Claimant Michael John Zoitias 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 claim, allegation, or information is false.

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

The customer had 20 years of trading experience. When the account was transferred to Respondent, it was comprised of approximately 90% New York Bank Corp. stock. Claimant suggested on several occasions that the customer diversify but the customer declined. In March 2008, when the stock was transferred in, it was selling for approximately \$15 per share. By September 2008, it was up to \$20 per share. Again,

Claimant tried to get the customer to sell but she refused. As a result of the great recession, the stock went down substantially, and the dividend was suspended. In March 2009, the customer sold the stock at its bottom for \$8 to \$10 per share. The customer filed an arbitration claiming fraud, unsuitability, fraudulent statements, and unauthorized trading. The customer claims were factually impossible, clearly erroneous and false. The stock in question was purchased before the account was transferred and the purchase could not have been made based upon any representations or actions by Claimant or Respondent. All trades were directed by the customer. When Claimant suggested that the customer sell the stock in September 2008 she refused. The stock went down during the great recession and the customer sold it. The customer continued to maintain the account with Respondent at the time the arbitration was filed. The evidence supports the Claimant's account of the facts. Claimant was not asked to pay any portion of the settlement and Respondent did not oppose the expungement.

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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent Newbridge Securities Corporation is assessed the following:

Member Surcharge	= \$	150.00
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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: November 2, 2020	1 session	

One (1) hearing session on expungement request @ \$ 50.00/session	= \$	50.00
Hearing: May 18, 2021	1 session	

Total Hearing Session Fees	= \$	100.00
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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

Michael H DuBoff

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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

Michael H DuBoff

Michael H DuBoff
Sole Public Arbitrator

05/24/2021

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.

May 24, 2021

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