

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

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In the Matter of the Arbitration Between:

Claimant  
Hernan M. Fonseca

Case Number: 20-02146

vs.

Respondent  
Amfin Investment Services, Inc.

Hearing Site: Boca Raton, Florida

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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 Hernan M. Fonseca: Harris Freedman, Esq., Of Counsel, HLBS Law, Westminster, Colorado.

For Respondent Amfin Investment Services, Inc.: Carol S. Severino, SVP, Amfin Investment Services, Inc., Cleveland, Ohio.

**CASE INFORMATION**

Statement of Claim filed on or about: July 7, 2020.

Hernan M. Fonseca signed the Submission Agreement: July 7, 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”) and seeking expungement of a termination disclosure and the accompanying internal review, which corresponds with a Form U5 entry filed by Respondent, on the basis that the statement is defamatory in nature, misleading, inaccurate and/or erroneous.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1020802 and 1034595; expungement of the Form U5 corresponding with Occurrence Number 955470, and those relevant portions of the Form U4, from Claimant’s CRD record, to include: (1) expungement of the Reason for Termination explanation on Claimant’s CRD; (2) amendment of

the answer to question 7B of Claimant's Form U5, from a "Yes" response to "No;" (3) amendment of the answer to question 7E(1)(c) of Claimant's Form U5, from a "Yes" response to "No;" and (4) deletion of the Internal Review and Termination Disclosure Reporting Pages in their entirety; compensatory damages in the amount of \$1.00 from Respondent; and any other relief that the Arbitrator deemed just and equitable.

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.

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. FINRA attempted to serve Respondent with the Claim Notification letter dated July 8, 2020, the Overdue Notice (including the Statement of Claim) dated October 7, 2020, and the Notification of Arbitrator dated October 29, 2020, by regular and certified mail. However, the mail was returned to FINRA by the USPS. The Arbitrator determined that the above efforts to serve Respondent were sufficient for purposes of determining service.

The Claim Notification letter notified Respondent that FINRA rules require parties to use the online DR Portal on a mandatory basis (except pro se investors) and that failure to register for the DR Portal will prevent the submission of pleadings, selection of arbitrators, and receipt of notification relating to case information and deadlines. Respondent failed to register for the DR Portal.

The Arbitrator determined that Respondent is, therefore, bound by the Arbitrator's ruling and determination.

### **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 (CRD Number 2367303) request for expungement of Occurrence Numbers 1020802, 1034595 and 955470 from his registration records maintained by the CRD is denied.
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 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 is assessed the following:

Member Surcharge = \$ 150.00

**Postponement Fees**

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

April 21, 2021, postponement requested by Claimant = \$ 50.00

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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) pre-hearing session with a single Arbitrator @ \$50.00/session = \$ 50.00  
Pre-Hearing Conference: December 23, 2020 1 session

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

Herbert Branitsky

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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**

***Herbert Branitsky***

Herbert Branitsky  
Sole Public Arbitrator

**07/09/2021**

Signature Date

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July 09, 2021

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