

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jeremy Wade Benoit

Case Number: 20-02149

vs.

Respondent
John Hancock Mutual Life Insurance Company

Hearing Site: Boston, Massachusetts

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 Jeremy Wade Benoit: Benjamin Winograd, JD, and Dochter Kennedy, JD, MBA, Advisor Law, LLC, Westminster, Colorado.

For Respondent John Hancock Mutual Life Insurance Company: William A. Gottlieb, Esq., John Hancock, Boston, Massachusetts.

CASE INFORMATION

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

Jeremy Wade Benoit signed the Submission Agreement: July 7, 2020.

Statement of Answer filed by Respondent on or about: September 3, 2020.

John Hancock Mutual Life Insurance Company 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 Number 1085093 from his CRD record pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous; expungement of Occurrence Number 1085093 from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false; a deletion of all Disclosure Reporting Pages accompanying the Underlying Claim, customer dispute Occurrence Number 1085093; 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 did not delineate a specific relief request.

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.

On February 1, 2021 and February 22, 2021, Claimant filed Affidavits confirming that the customer in Occurrence Number 1085093 ("Customer") 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 February 25, 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 found that the Customer 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 1085093 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: Claimant's verbal testimony; 1996 Total Distribution Statement; 04/02/1996 Hancock IRA Adoption Agreement; 04/02/1996 Hancock IRA Transfer form; 04/02/1996 IRA Adoption Agreement; 06/25/1996 Client Profile Joint 1996; 02/04/1997 Hancock Product Summary; 07/09/1997 Hancock Product Summary; 03/17/1998 Distribution request; 11/17/1998 Consolidated Summary Statement; 10/12/1999 Hancock Consolidated Summary Statement; 10/13/1999 Signator investor Customer Investment Instructions; 10/13/1999 Signator investor

Customer Investment Instructions; 1999-2000 Client Contact Log; 1999-2000 Home Office Sales Materials; 01/05/2000 Signator Investor Customer Investment Instructions; 03/06/2000 Hancock Consolidated Summary Statement; 04/30/2002 Client Complaint; 06/08/2002 FA Response to Complaint Letter; 04/01/2003 to 06/30/2003 IDEX Quarterly Statement; 02/16/2005 Neebco Client Termination Notification; and 03/27/2007 Client Contact to JH Narrative of events.

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 1085093 from registration records maintained by the CRD for Claimant Jeremy Wade Benoit (CRD Number 2277073) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jeremy Wade Benoit 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:

Claimant Jeremy Wade Benoit is a 50-year-old male who has been a financial advisor since 1992. He was employed by Respondent from September 1992 through December 2001. He is currently registered through Cambridge Investment Research of Fairfield, Iowa. This claim for expungement concerns a complaint made to Respondent by the Customer, Claimant's former client. This resulted in a negative report being listed by Respondent on Claimant's CRD record and BrokerCheck® Report in May 2002. This negative report was listed by Respondent, not by the Customer.

Claimant first met the Customer in 1996, who had a moderate sum to invest. The Customer sought Claimant's advice for investing this money. Claimant testified that he met with the Customer several times over a period of roughly six months to thoroughly ascertain the Customer's goals and risk tolerance. According to Claimant's testimony, the Customer expressed a desire for a portfolio of aggressive growth, and further, that she did not have any liquidity concerns and had a long-term horizon for her investments. The Customer was 58 years old when she and Claimant first met. Further testimony revealed that Claimant, as a result of his meetings with the Customer, and evaluation of appropriate investments, recommended an array of mutual funds which would comply with her goals.

Claimant introduced a number of exhibits to buttress his case. Exhibit 5, the Client Profile Form which the Customer executed, demonstrated that: (i) Claimant had adequately explained the ramifications of the recommended investments; (ii) Claimant had adequately explained the risks of these investments; (iii) the Customer agreed with Claimant's recommendations; and (iv) the recommended investments complied with the Customer's objectives. Claimant testified that he recommended the portfolio to meet the Customer's ten-year timeline.

Subsequent to the Customer's initial investments, Claimant stated that he would meet with her three to four times a year. He testified that the Customer would complain that others in her circle of friends and relatives would tell her how well their investments were doing, and that the Customer inferred that her investments were inferior. Claimant stated that he tried to meet the Customer's concerns, even though he demonstrated that she was obtaining about a 13% gain. (Exhibit 9, Consolidated Summary Statement of Account dated November 1998).

Unfortunately, during or around the year 2000, due to the crash in so-called dot.com companies, upon which the Customer's investments were reliant, the Customer's portfolio declined between March 2000 and October 2002. As a result, the Customer was sorely dissatisfied and, despite Claimant's efforts to preserve the worth of her investments, in March 2001, made a complaint to Claimant's manager at Respondent. (Exhibit 21, Client Contact Log). The Customer complained that she never received any information on the risk level of her accounts and asked the manager to fax her that information. The manager's log states that he told the Customer that the reports sent to her should reveal the information she was looking for. He instead mailed the Customer a complaint form.

Nonetheless, in April 2002, the Customer wrote to Respondent alleging that the investments recommended by Claimant were unsuitable. (Exhibit 17, Letter from the Customer to Respondent, April 30, 2002). The Customer did not contact Claimant directly. Claimant had left Respondent's employ as of that date but was contacted by Respondent to reply to the Customer's complaint, which he did, denying the allegations. (Exhibit 18, Letter from Claimant to Respondent, June 8, 2002). However, as previously noted, the negative statement appeared on Claimant's CRD record and BrokerCheck® Report in May 2002. This is the statement, placed on the records by Respondent, which Claimant seeks to have expunged. It is notable that the Customer did not pursue her claim beyond making the complaint to Respondent.

The Customer did not pursue her complaint beyond written statement to Respondent. She did not initiate litigation or, according to testimony, did not seek a monetary settlement, the best of Claimant's knowledge. No settlement documents were introduced.

After review of Claimant's testimony and exhibits presented at the hearing, the Arbitrator recommends expungement. The Arbitrator finds expungement is warranted under FINRA Rule 2080(b)(1)(A), in that the allegation of unsuitability is erroneous, and FINRA Rule 2080(b)(1)(c), in that the claim is false. The suitability of an investment is determined as of the time that the investment is made, and the Arbitrator finds that to be the case here. Further, the Arbitrator finds that Claimant took every reasonable effort to accommodate the Customer's wishes as to the structure of her portfolio.

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
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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 event giving rise to the dispute. Accordingly, as a party, Respondent 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:

Two (2) pre-hearing sessions with a single Arbitrator @ \$50.00/session	= \$	100.00
Pre-Hearing Conferences: October 22, 2020	1 session	
January 27, 2021	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: February 25, 2021	1 session	

Total Hearing Session Fees	= \$	150.00
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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

Howard N. Gorney

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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

Howard N. Gorney

Howard N. Gorney
Sole Public Arbitrator

03/04/2021

Signature Date

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March 04, 2021

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