

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

John Y. Chien
Doris W. Chien

Case Number: 20-02243

vs.

Respondents

J.P. Morgan Securities, LLC
James Dimon
Jason R. Jensen
Xuejun J. Kuang
Tim D. Lippincott

Hearing Site: Los Angeles, California

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: Customers vs. Member and Associated Persons

This case was decided by a majority-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

Claimant John Y. Chien (“John Chien”) appeared pro se.

Claimant Doris W. Chien (“Doris Chien”) appeared pro se.

Hereinafter, John Chien and Doris Chien are collectively referred to as “Claimants”.

For Respondents J.P. Morgan Securities, LLC (“J.P. Morgan”), James Dimon (“Dimon”), Jason R. Jensen (“Jensen”), Xuejun J. Kuang (“Kuang”), and Tim D. Lippincott (“Lippincott”): Heidi E. VonderHeide, Esq., Ulmer & Berne LLP, Chicago, Illinois.

Hereinafter, J.P. Morgan, Dimon, Jensen, Kuang, and Lippincott are collectively referred to as “Respondents”.

CASE INFORMATION

Statement of Claim filed on or about: July 20, 2020.

Amended Statement of Claim filed on or about October 5, 2020.
Second Amended Statement of Claim filed on or about: February 1, 2021.
Claimants signed the Submission Agreement: July 20, 2020.

Statement of Answer filed by Respondents on or about: October 26, 2020.
Respondents' Answer to the Second Amended Statement of Claim filed on or about: February 11, 2021.

J.P. Morgan signed the Submission Agreement: October 5, 2020.

Dimon did not sign the Submission Agreement.

Jensen signed the Submission Agreement: October 2, 2020.

Kuang signed the Submission Agreement: October 1, 2020.

Lippincott signed the Submission Agreement: October 2, 2020.

CASE SUMMARY

In the Statement of Claim, Amended Statement of Claim, and Second Amended Statement of Claim, Claimants asserted the following causes of action: breach of fiduciary duties; failure to act as an investment representative; total misrepresentation; misconduct – malicious inducement; omissions and fraudulent transactions; and breach of contract. The causes of action relate to various unspecified securities.

In the Statement of Answer and Answer to the Second Amended Statement of Claim, Respondents denied the allegations made in the Amended Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested:

1. Damages totaling \$50,000.00, which include \$7,348.32 in compensatory damages and \$42,651.68 in punitive damages; and
2. Interest.

In the Amended Statement of Claim, Claimants requested:

1. Damages totaling \$500,000.00, which include \$7,348.32 in compensatory damages for Claimants, \$246,325.84 in compensatory, punitive and treble damages for John Chien, and \$246,325.84 in compensatory, punitive and treble damages for Doris Chien; and
2. Interest.

In the Second Amended Statement of Claim, Claimants requested:

1. Damages totaling \$500,000.00, which include \$7,348.32 in compensatory damages for Claimants, \$246,325.84 in compensatory, punitive and treble damages for John Chien and \$246,325.84 in compensatory, punitive and treble damages for Doris Chien;
2. Interest; and
3. All fees, including the filing fee and all hearing session fees, be assessed to Respondents.

In the Statement of Answer and Answer to the Second Amended Statement of Claim, Respondents requested:

1. Dismissal or denial of all claims asserted by Claimants; and
2. Any other relief that the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

Dimon did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure (“Code”) and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

On October 26, 2020, Dimon and Kuang filed a Motion to Dismiss Pursuant to FINRA Rule 12504 of the Code (“Motion to Dismiss”). On December 12, 2020, Claimants filed a response opposing the Motion to Dismiss. On December 21, 2020, Dimon and Kuang filed their reply. By Order dated December 22, 2020, the Panel requested the parties to submit additional briefs explaining how Dimon and Kuang were associated with Claimants’ accounts or involved in the securities or conduct alleged in Claimant’s claims. On January 7, 2021, the Panel heard oral arguments on the Motion to Dismiss. That same day, the Panel granted the Motion to Dismiss on the following grounds:

Claimant[s] [do] not allege that either Respondent had involvement in Claimant[s]’ account or with the event giving rise to the claims against Respondents. Claimant[s] [do] not sufficiently allege facts to sustain any cause of action against Respondents James Dimon or Xuejun J. Kuang.

The Order further stated that Claimants had until February 1, 2021 to file an Amended Statement of Claim if they chose to do so. On February 1, 2021, Claimants filed the Second Amended Statement of Claim.

On February 11, 2021, Dimon and Kuang filed a Renewed Motion to Dismiss, pursuant to FINRA Rule 12504 of the Code. No responses were received. On April 19, 2021, the Panel heard oral arguments on the Renewed Motion to Dismiss. That same day, the Panel issued an Order granting the Renewed Motion to Dismiss without leave to file an Amended Statement of Claim. The Panel ordered as follows:

As a result of the panel granting the first Motion to Dismiss Respondents Dimon and Kuang, Claimant[s] [were] provided an opportunity to amend [their] Statement of Claim to make specific allegations against Respondents Dimon and Kuang, but Claimant[s]’ amended statement of claim does not add any specific allegations against of wrong doing against Respondents Dimon and Kuang, other than saying they were managers who failed to manage. Thus, under FINRA Rule 12504(a)(6)(B), dismissal of Dimon and Kuang without further leave to amend is appropriate.

On May 10, 2021, Claimants filed a Motion of Objections and further Against the Dismissal of Dimon and Kuang. No responses were received. By Order dated May 21, 2021, the Panel denied Claimants’ motion.

On May 20, 2021, Jensen and Lippincott filed a Motion for Expungement. On May 26, 2021, Claimants filed their opposition. On June 1, 2021, Jensen and Lippincott filed their reply. On June 3, 2021, Claimants filed further submissions, opposing Jensen and Lippincott’s expungement requests.

The Panel conducted a recorded hearing by videoconference on June 9, 2021. At the conclusion of Claimants' case-in-chief, J.P. Morgan, Jensen and Lippincott made an oral motion for judgment. The Panel granted the motion on the grounds that Claimants failed to introduce sufficient evidence to carry their burden of proof of their claims.

The Panel conducted a recorded hearing by videoconference on June 10, 2021, so the parties could present oral argument and evidence on Jensen and Lippincott's requests for expungement. Claimants participated in the expungement hearing and opposed the requests for expungement.

The Panel reviewed Jensen and Lippincott's respective BrokerCheck® Reports.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimants' Statement of Claim; Jensen's BrokerCheck® Report; Lippincott's BrokerCheck® Report; Jensen and Lippincott's testimony; and all exhibits introduced at the arbitration hearing.

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are denied in their entirety pursuant to the motion for judgment made by Respondents after Claimants rested their case.
2. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 1973019) from registration records maintained by the CRD for Respondent Tim D. Lippincott (CRD Number 5188975) with the understanding that, pursuant to Notice to Members 04-16, Respondent Tim D. Lippincott must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

The Panel also recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2087262) from registration records maintained by the CRD for Respondent Jason R. Jensen (CRD Number 6125867) with the understanding that, pursuant to Notice to Members 04-16, Respondent Jason R. Jensen 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 12805 of the Code, the Panel has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The claim, allegation, or information is false.

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

Claimants failed to present sufficient evidence to carry their burden of proof and were unable to present any evidence to warrant denying the expungement requests. The claims and complaints made against Jensen and Lippincott were wholly unsupported by fact or law, thus they were factually impossible to sustain, were clearly erroneous and frivolous, and clearly false allegations and complaints.

3. Any and all claims for relief not specifically addressed herein, including any requests for punitive and treble damages, 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	= \$	1,425.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, J.P. Morgan is assessed the following:

Member Surcharge	= \$	1,900.00
Member Process Fee	= \$	3,750.00

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision	= \$	200.00
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J.P. Morgan submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	= \$	200.00
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The Panel has assessed the total discovery-related motion fees jointly and severally to Claimants.

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	3,375.00
Pre-Hearing Conferences: January 7, 2021	1 session	
April 19, 2021	1 session	
May 13, 2021	1 session	
Two (2) hearing sessions @ \$1,125.00/session	= \$	2,250.00
Hearing: June 9, 2021	2 sessions	
One (1) hearing session on expungement request @ \$1,125.00/session	= \$	1,125.00
Hearing: June 10, 2021	1 session	
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Total Hearing Session Fees	= \$	6,750.00

The Panel has assessed \$4,500.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$1,125.00 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed \$1,125.00 of the hearing session fees jointly and severally to Lippincott and Jensen.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATION PANEL

Joseph C. Watson	-	Public Arbitrator, Presiding Chairperson
Howard Clark Posner	-	Public Arbitrator
Daniel David Kopman	-	Non-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.

Concurring Arbitrators' Signatures

Joseph C. Watson

Joseph C. Watson
Public Arbitrator, Presiding Chairperson

07/20/2021

Signature Date

Howard Clark Posner

Howard Clark Posner
Public Arbitrator

07/21/2021

Signature Date

Daniel David Kopman

Daniel David Kopman
Non-Public Arbitrator

07/21/2021

Signature Date

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July 21, 2021

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