

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Matthew Stephen Hoffman

Case Number: 20-02263

vs.

Respondent

J.P. Morgan Securities LLC

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

REPRESENTATION OF PARTIES

For Claimant Matthew Stephen Hoffman: Dochter Kennedy, MBA, J.D. and Kurt Zimmerman, Esq., Advisor Law LLC, Westminster, Colorado.

For Respondent J.P. Morgan Securities LLC: Thomas J. Cahill, Esq., Duane Morris LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: July 17, 2020.

Amended Statement of Claim filed on or about October 28, 2020.

Matthew Stephen Hoffman signed the Submission Agreement: July 17, 2020.

Amended Statement of Answer filed by Respondent on or about: November 18, 2020.

J.P. Morgan Securities, LLC signed the Submission Agreement: November 19, 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”).

Unless specifically admitted in the Amended Statement of Answer, Respondent denied the allegations made in the Amended Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Amended Statement of Claim, Claimant requested: expungement of Occurrence Number 2070380; 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 Amended Statement of Answer, Respondent did not set forth 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.

On October 28, 2020, Claimant filed a Motion to Amend the Statement of Claimant. Respondent did not file a response. By Order dated November 11, 2020, the Arbitrator granted Claimant's Motion to Amend.

On December 2, 2020, Claimant advised that the customer in Occurrence Number 2070380 was served with the Statement of Claim and notice of the date and time of the expungement hearing. On December 15, 2020, Claimant filed an Affidavit confirming that the customer was 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 March 9, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing did not oppose the request for expungement.

The customer for Occurrence Number 2070380 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 did not review the settlement documentation related to Occurrence Number 2070380 as there was no formal settlement agreement. A trade correction was performed by Respondent to resolve the complaint from the customer and this was regarded as the settlement. The Arbitrator considered the amount of payment made to any party to the settlement and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request. The Arbitrator noted that the settlement was a trade correction to the customer's account and the settlement amount was charged back to Claimant through six monthly installments. The Arbitrator still recommends expungement of this occurrence since Claimant disputed the customer's claim and denies any wrongdoing on his part.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, 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 2070380 from registration records maintained by the CRD for Claimant Matthew Stephen Hoffman (CRD Number 2558496) with the understanding that, pursuant to Notice to Members 04-16, Claimant Matthew Stephen Hoffman 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 factual background of this expungement request involves a strange, if not unique background. The customer was originally a client of the Claimant’s father, then for twenty years of the Claimant, and had invested a significant amount of money in the account under Claimant’s supervision. Additionally, the customer used J.P. Morgan for his business banking needs. Around the time of this transaction, the customer had been accused in Arizona of involvement in a payday loan controversy and the Respondent bank had decided it did not want the customer’s business either in its general banking or in the securities division.

The security in issue was a bond fund whose previous pricing had moved only a penny or two up or down, providing a return almost double of a money market fund. When the pandemic arose in February and March 2020, and the markets seized up, the bond fund had a substantial drop in value. The Claimant recommended that the customer hold on to the fund in the expectation that it would rise to its former level, which it eventually did after the government stabilized the markets. The bond fund stock was sold for a loss of \$39,333.76.

The Claimant’s manager decided to treat the customer’s complaint as a trade error, reversed the trade, returned the loss to the customer, who was forced to take his banking and securities business elsewhere. The Claimant was then forced to reimburse the bank for the “trade error”. This was not the normal procedure as losses in investments are not usually reimbursed and the Claimant maintains that he told the customer, an experienced investor, of the risks. The pandemic crisis and market seizures, which caused the drop was almost unheard of and was completely unexpected. The Claimant had no say in treating the matter as a trade error. The Claimant’s manager is no longer with the

Respondent. Claimant disputes the customer's allegations and denies any wrongdoing on his part.

Given the surrounding facts relating to the customer's complaint, the unique nature of the market drop at the time, and the response of the Respondent's bank to the allegation, the Arbitrator concludes that the allegation of the customer is false and erroneous and permits exculpation under the narrow grounds allowed in Rule 2080.

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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent J.P. Morgan Securities LLC is assessed the following:

Member Surcharge = \$ 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 with a single Arbitrator @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: November 3, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: March 9, 2021 1 session

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

James J. Fishman

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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

James J. Fishman

James J. Fishman
Sole Public Arbitrator

03/16/2021

Signature Date

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March 17, 2021

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