

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Christopher D. Scroggins

Case Number: 20-02277

vs.

Respondent

Piper Sandler & Co.

Hearing Site: San Francisco, 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: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant Christopher D. Scroggins (“Claimant”): Avi Rosenfeld, Esq., The Rosenfeld Law Office, Lawrence, New York.

For Respondent Piper Sandler & Co. (“Respondent”): Ann C. McCague, Piper Sandler & Co., Minneapolis, Minnesota.

CASE INFORMATION

Statement of Claim filed on or about: August 21, 2020.

Claimant signed the Submission Agreement: June 15, 2020.

Statement of Answer filed by Respondent on or about: October 2, 2020.

Respondent signed the Submission Agreement: October 2, 2020.

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 did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Numbers 286391, 847155, and 1340714 from Claimant's CRD Records pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous;
2. Expungement of Occurrence Numbers 286391, 847155, and 1340714 from Claimant's CRD Records pursuant to FINRA Rule 2080(b)(1)(B), as Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds;
3. Expungement of Occurrence Numbers 286391, 847155, and 1340714 from Claimant's CRD Records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
4. Compensatory damages in the amount of \$1.00 from Respondent; and
5. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent made no specific request for relief.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On December 15, 2021, Claimant advised that the customers in Occurrence Numbers 286391 ("Mr. L"), 847155 ("Mr. N"), and 1340714 ("Ms. E") were served with the Statement of Claim and notice of the date and time of the expungement hearing.

Hereinafter, Mr. L, Mr. N, and Ms. E are collectively referred to as the "Customers".

The Arbitrator conducted a recorded, telephonic hearing on December 21, 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 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 the settlement documentation related to Occurrence Number 1340714. The Arbitrator found that despite the good faith effort made by Claimant to locate the settlement agreement, it was unavailable due to the length of time since the settlement occurred and the mergers of firms and sales of firm departments. Having reviewed Claimant's CRD records and Claimant's BrokerCheck® Report concerning Occurrence Number 1340714 and heard Claimant's testimony, the Arbitrator considered the amount of payment made in the settlement and that Claimant did not contribute to the settlement amount. The Arbitrator noted that the date of the settlement preceded the effective date of the rule against conditioned settlements.

The Arbitrator noted that the disputes related to Occurrence Numbers 286391 and 847155 were not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Statement of Claim; Claimant's BrokerCheck® Report; Claimant's U-4; and Claimant's testimony.

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 claim for \$1.00 in compensatory damages is denied.
2. The Arbitrator recommends the expungement of all references to Occurrence Numbers 286391, 847155, and 1340714 from registration records maintained by the CRD for Claimant Christopher D. Scroggins (CRD Number 2316466) with the understanding that, pursuant to Notice to Members 04-16, Claimant Christopher D. Scroggins 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.

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The claim, allegation, or information is false.

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

Occurrence Number 286391

Mr. L held three accounts; one stock declined in price in one account. Claimant stated he always followed the investment objectives of his customers and only recommended securities cleared and recommended by the firm. He was surprised to find the entry on his U-4 as Mr. L never complained to him, discovering the entry years after the occurrence. The firm never invited Claimant to participate in the settlement or discussions. The Arbitrator finds the claim and its allegations are false, without factual basis. Expungement is recommended.

Occurrence Number 847155

Mr. N and Claimant spoke frequently although Mr. N was not a frequent trader. Mr. N used a buy and hold strategy. Of the trades made through Claimant, half were suggested by Claimant and half were unsolicited. Of the solicited trades, Claimant always suggested stocks researched and approved by the firm.

The stock in question was PGEX, Pacific Gateway, an internet provider. When Mr. N purchased the stock, it was at twenty-four dollars. It subsequently went up to fifty-four dollars then declined rapidly to six dollars when the dot-com bubble burst. The claim was filed after the decline. Numerous phone calls, emails, the purchase confirmation, and monthly statements showed Mr. N knew and approved of the trade and followed the stock closely. He knew when it appreciated and knew when it declined.

The case was investigated by an SRO, which Claimant believes it was the NYSE. No basis for the complaint was found. Neither the firm nor the Claimant paid anything to settle the claim; it was dismissed. The Arbitrator finds the claim or allegation was false and expungement is recommended.

Occurrence Number 1340714

This case was brought on behalf of a decedent's estate by the trustee. The decedent, Ms. E, had a broker other than Claimant. Ms. E had a large inherited account that was highly concentrated in a single stock, Abbot Labs. Ms. E used the account for living expenses for her and her husband. As she had a tax basis of zero, capital gains taxes would be high when selling the stock. The previous broker, instead of selling, had Ms. E to take out margin loans against the stock. As long as the Abbot Labs stock price kept appreciating, the scheme made sense.

Claimant took over the account when the original broker died. When Abbot Labs stock went flat, trading in a five-dollar range, it was no longer practical to use the margin loan technique as the interest was compounding at nine per-cent. Claimant, with Ms. E's permission started selling stock and paying down the loan. By the time of Ms. E's death, the loan had been paid down to about forty thousand dollars. Claimant did not buy any stock for the account. All sales were for paying down the loan and for Ms. E's living expenses at her request.

The estate's representative did not understand the facts and filed a claim for the amount of interest that had accrued due to the margin loans, making the allegations stated above. There could not have been any unsuitable investments as no stock was purchased.

The case was settled for the estimated cost of litigation. Claimant did not participate in the settlement.

The allegations were clearly factually impossible and clearly erroneous. Expungement of Occurrence Number 1340714 is recommended.

3. Claimant's request for waiver of forum fees assessed prior to the evidentiary hearing is denied.
4. 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(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
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Postponement Fees

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

February 5, 2021, postponement requested by Claimant	=\$	50.00
April 15, 2021, postponement requested by Claimant	=\$	50.00
June 16, 2021, postponement requested by Claimant	=\$	50.00

Total Postponement Fees	=\$	150.00
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The Arbitrator has assessed the total postponement fees to Claimant.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

February 5, 2021, cancellation requested by Claimant	=\$	600.00
April 15, 2021, cancellation requested by Claimant	=\$	600.00
June 16, 2021, cancellation requested by Claimant	=\$	600.00

Total Last-Minute Cancellation Fees	=\$	1,800.00
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The Arbitrator has assessed the total last-minute cancellation 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 15, 2020 1 session		
One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: December 21, 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

Daniel M. Yamshon

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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

Daniel M. Yamshon

Daniel M. Yamshon
Sole Public Arbitrator

01/18/2022

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.

January 18, 2022

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