

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

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In the Matter of the Arbitration Between:

Claimant  
Alan Walton Sharpe

Case Number: 20-02389

vs.

Respondent  
Moors & Cabot, Inc.

Hearing Site: Boston, Massachusetts

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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

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Alan Walton Sharpe: Daniel D'Costa, Esq, D'Costa Law, Hicksville, New York.

For Respondent Moors & Cabot, Inc.: Peter Svorinic, Esq., Moors & Cabot, Inc., Boston, Massachusetts.

**CASE INFORMATION**

Statement of Claim filed on or about: July 28, 2020.

Alan Walton Sharpe signed the Submission Agreement: July 16, 2020.

Statement of Answer filed by Respondent on or about: October 16, 2020.

Moors & Cabot, Inc. signed the Submission Agreement: October 13, 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 denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1923638, 1905899, and 1879491; compensatory damages in the amount of \$1.00 from Respondent; and

any and all other relief that the Arbitrator deemed just and equitable.

In the Statement of Answer, Respondent requested that it be removed as a party for this case and that Claimant re-file this case naming the appropriate Respondent.

At the beginning of 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 or about March 26, 2021, Claimant advised that the customers in Occurrence Numbers 1923638, 1905899 and 1879491 (respectively, Customer A, Customer B and Customer C) were served with a copy of the Statement of Claim, notice of the date and time of the expungement hearing and of their right to participate therein. On or about March 26, 2021, Claimant filed with FINRA Dispute Resolution Services proof of service via United States Postal Service ("USPS") upon the underlying Customers, advising that the Customers were served on or about March 26, 2021, with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded hearing by videoconference on May 5, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

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

Customer A, through her daughters, participated in the expungement hearing and opposed the expungement request. On or about May 5, 2016, Customer A, through her daughters, filed an Investigative Report of Customer A's account to support the opposition to the expungement request. Customer B and Customer C 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.

On or about May 14, 2021, Claimant submitted correspondence representing that Claimant was unable to produce the settlement agreements in connection with Occurrence Numbers 1905899 and 1923638 because Claimant is not in possession of the settlement agreements. Thus, the Arbitrator did not review any settlement documentation related to Occurrence Numbers 1905899 and 1923638. Claimant testified that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to the settlement amounts.

The Arbitrator noted that the dispute related to Occurrence Number 1879491 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 20-day Pre-Hearing Exchange, along with Exhibits; Claimant's testimony; and Claimant's BrokerCheck® Report.

### **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 request for expungement of Occurrence Number 1923638 from his registration records maintained by the CRD is denied.
2. The Arbitrator recommends the expungement of all references to Occurrence Numbers 1905899 and 1879491 from registration records maintained by the CRD for Claimant Alan Walton Sharpe (CRD Number 2011593) with the understanding that, pursuant to Notice to Members 04-16, Claimant Alan Walton Sharpe 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 claim, allegation, or information is false.

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

In Occurrence Number 1905899, Customer B filed a written complaint alleging unauthorized trading by the Claimant and that Claimant failed to follow Customer B's instructions. Claimant testified that all trades on behalf of Customer B were both fully discussed and authorized by Customer B. Further, Claimant presented credible evidence by a letter from the employer that Customer B rescinded the complaint and that Customer B was happy with the investment strategy, portfolio allocation, securities, and servicing of the account. Moreover, Customer B continued to be a customer of the Claimant and did not appear at the hearing to complain. Thus, the complaint was clearly erroneous and/or the claim was false.

In Occurrence Number 1879491, Customer C filed a written complaint alleging unauthorized trading against Claimant. Claimant presented credible evidence that Claimant discussed every transaction with Customer C and obtained Customer C's authorization for the transactions. Further, Claimant presented a letter from Customer C stating that Customer C had never complained about Claimant to his employer, and also rescinded any misunderstanding of it in the letter. Claimant stated that after Claimant left the employer, Customer C came to his new firm, and Customer C did not appear at the hearing. Thus, this

claim should be expunged as the complaint was clearly erroneous, and/or the claim was false.

3. 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

**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: December 7, 2020 1 session

February 22, 2021 1 session :

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00

Hearing: May 5, 2021 1 session

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Total Hearing Session Fees = \$ 150.00

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**

Jeffrey P. Petrucelly

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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**

***Jeffrey P. Petrucelly***

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Jeffrey P. Petrucelly  
Sole Public Arbitrator

**05/21/2021**

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Signature Date

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May 21, 2021

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