

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
James V. Regier

Case Number: 20-02396

vs.

Respondent
Cetera Advisor Networks, LLC

Hearing Site: Kansas City, Missouri

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

This case was administered under the Special Proceeding option for simplified cases.

REPRESENTATION OF PARTIES

For Claimant James V. Regier (“Claimant”): Jon M. Stanfield, Esq., Rees, Kincaid and Stanfield Law, Lenexa, Kansas.

For Respondent Cetera Advisor Networks, LLC (“Respondent”): David Feldstein, Esq., Cetera Financial Group, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: July 29, 2020.
Claimant signed the Submission Agreement: July 28, 2020.

Statement of Answer filed on or about: September 17, 2020.
Respondent signed the Submission Agreement: September 15, 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 expungement of Occurrence Numbers 1599657,

1883882, and 1896470 and an award of compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent requested that Claimant's request for \$1.00 in compensatory damages be denied and that all forum costs and fees be assessed against Claimant.

At the hearing, Claimant withdrew the request for \$1.00 in compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

On January 13, 2021, Claimant filed an Affidavit confirming that the attorney-in-fact for the customer in Occurrence Number 1599657, the customer in Occurrence Number 1883882, and the heirs-at-law for the customer in Occurrence Number 1896470 (collectively, "Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notices"). On February 18, 2021, Claimant filed copies of the signature cards for the Notices.

On January 25, 2021, Claimant filed a letter from the son and attorney-in-fact for the customer in Occurrence Number 1599657 ("Customer Letter"), stating that his mother has no objection and expungement is appropriate.

The Arbitrator conducted a recorded, telephonic hearing on February 16, 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 also 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 also reviewed the settlement documentation related to Occurrence Number 1599657, 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 and that Claimant did not contribute to the settlement amount.

The Arbitrator noted that the disputes related to Occurrence Numbers 1883882 and 1896470 were not settled and, therefore, there was no settlement documentation to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Exhibits 1-23, Claimant's testimony, and the Customer Letter.

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:

The Arbitrator recommends the expungement of all references to Occurrence Numbers 1599657, 1883882, and 1896470 from registration records maintained by the CRD for Claimant James Vernon Regier (CRD Number 4497085) with the understanding that, pursuant to Notice to Members 04-16, Claimant James Vernon Regier 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 finding of fact with respect to Occurrence Number 1599657:

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

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

Occurrence Number 1599657:

The customer’s complaint was related to four investments made by her prior broker. These investments were in her portfolio when Claimant acquired the accounts from the broker, who was retiring. Respondent bought back the four investments and entered into a settlement agreement with the customer. Claimant did not contribute to settlement and had no role in the settlement negotiations. In addition, the customer's attorney-in-fact provided a letter supporting expungement. Based on Claimant’s credible testimony and the evidence presented, Claimant was not involved in the alleged investment-related sales practice violation.

Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative findings of fact with respect to Occurrence Numbers 1883882 and 1896470:

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:

Occurrence Number 1883882:

The customer complained that an investment in a real estate investment trust (“REIT”) was unsuitable in light of her age and risk tolerance. Claimant testified that he recommended that 10% of the customer’s investments be in real estate. Eventually, the

customer invested 6% in the REIT. The customer was fully advised of the risks of this investment. Claimant also testified that the customer's goals were growth, aggressive growth, and growth and income. The investment in the REIT was consistent with those goals and there was no overconcentration. Claimant kept the customer fully advised of the status of the investment. Accordingly, the evidence establishes that the customer's claims are clearly erroneous and false.

Occurrence Number 1896470:

The customer complained that an investment in a REIT was unsuitable. Claimant testified that the customer's objectives were growth and income with a moderate risk tolerance. At Claimant's recommendation, the customer invested 6% of his portfolio in the REIT, which was well within Respondent's and industry guidelines for the customer's risk profile. The customer later requested two more investments in the same REIT. Prior to making the investments, the customer signed a Subscription Agreement and Respondent's Alternative Investments Form. The customer was fully advised of the risks of the investments. Accordingly, the Arbitrator finds that the investments were appropriate for the customer and the customer's claims are clearly erroneous and false.

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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge Fee	= \$	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:

One (1) pre-hearing session @ \$50.00/session	= \$	50.00
Pre-Hearing Conference: November 16, 2020	1 session	
One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: February 16, 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

John R. Loss - 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

John R. Loss

John R. Loss
Sole Public Arbitrator

02/26/2021

Signature Date

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February 26, 2021

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