

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Scott James Colangelo

Case Number: 20-02426

vs.

Respondent
The O.N. Equity Sales Company

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

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Scott James Colangelo (“Claimant”): Daniel D’Costa, Esq., D’Costa Law, P.C., Hicksville, New York.

For Respondent The O.N. Equity Sales Company (“Respondent”): Mark E. Elsener, Esq., Ohio National Financial Services, Inc., Cincinnati, Ohio.

CASE INFORMATION

Statement of Claim filed on or about: July 29, 2020.

Amended Statement of Claim filed on or about: April 20, 2021.

Claimant signed the Submission Agreement: July 14, 2020.

Statement of Answer filed on or about: August 25, 2020.

Respondent signed the Submission Agreement: August 28, 2020.

CASE SUMMARY

In the Statement of Claim, as amended, 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 object to Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested expungement, compensatory damages in the amount of \$1.00, and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested an award denying Claimant's demand for \$1.00 in compensatory damages, and any other relief against it, and assessing all forum fees or other costs against Claimant.

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 February 26, 2021, Claimant advised that the customers in two customer disputes ("Customers") were served 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 April 20, 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. The Arbitrator found Claimant made reasonable efforts to locate and provide notice of the expungement hearing to the Customers.

After the expungement hearing, in an Order dated April 20, 2021, the Arbitrator directed Claimant to file an Amended Statement of Claim. The same day, Claimant filed an Amended Statement of Claim.

In an Order dated April 26, 2021, the Arbitrator directed Claimant to file additional documentation. On April 27, 2021, Claimant filed responsive documents. In an Order dated April 28, 2021, the Arbitrator directed Claimant to file the occurrence number for the two customer disputes referenced in the Amended Statement of Claim and additional documentation. The same day, Claimant filed responsive documents and notice that the applicable occurrence numbers were 1199909 and 773596.

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 also reviewed the settlement documentation related to Occurrence Number 1199909, 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.

In recommending expungement of Occurrence Number 1199909, the Arbitrator relied upon the following documentary or other evidence: Claimant’s testimony and the Statement of Answer.

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. The Arbitrator recommends the expungement of all references to Occurrence Number 1199909 from registration records maintained by the CRD for Claimant Scott James Colangelo (CRD Number 2699803) with the understanding that, pursuant to Notice to Members 04-16, Claimant Scott James Colangelo 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:

The claim, allegation, or information is false.

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

The complaint received by Respondent on April 28, 2004 is false, because, if there was an unsuitability error, it was done by someone other than Claimant.

2. Claimant’s request for expungement of Occurrence Number 773596 from his registration records maintained by the CRD is denied.
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 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

Postponement Fees

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

December 10, 2020, postponement requested by Claimant = \$ 50.00

Total Postponement Fees = \$ 50.00

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:

December 10, 2020, cancellation requested by Claimant = \$ 600.00

Total Last-Minute Cancellation Fees = \$ 600.00

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:

Two (2) pre-hearing sessions @ \$50.00/session = \$ 100.00

Pre-Hearing Conferences: November 23, 2020 1 session
December 10, 2020 1 session

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

Hearing: April 20, 2021 1 session

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

Bill Lamoreaux

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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

Bill Lamoreaux

Bill Lamoreaux
Sole Public Arbitrator

04/30/2021

Signature Date

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April 30, 2021

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