

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jordan Whitney Waring

Case Number: 20-02465

vs.

Respondent
Lehman Brothers Inc

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 Jordan Whitney Waring: Dochtor Kennedy, J.D., MBA, and Frances Menzer, Esq., Advisor Law, LLC, Westminster, Colorado.

Respondent Lehman Brothers Inc did not enter an appearance.

CASE INFORMATION

Statement of Claim filed on or about: July 31, 2020.

Jordan Whitney Waring signed the Submission Agreement: July 31, 2020.

Lehman Brothers Inc did not file a Statement of Answer or sign the Submission Agreement.

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”).

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 17694; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deems just and equitable.

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.

Respondent did not file a Statement of Answer or a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and is bound by the determination of the Arbitrator on all issues submitted.

On September 19, 2008, Respondent Lehman Brothers Inc. filed for bankruptcy under the United States Bankruptcy Code. This matter proceeded pursuant to Court Stipulation and Order pursuant to Section 362 of the Bankruptcy Code, modifying the automatic stay for the limited purpose of permitting brokers to pursue Financial Regulatory Authority (FINRA) Dispute Resolutions.

On February 10, 2021, Claimant advised that the customer in Occurrence Number 17694 was served with the Statement of Claim and notice of the date and time of the expungement hearing. On February 18, 2021, 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 17, 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 customer 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 was unable to review the settlement documentation related to Occurrence Number 17694. Claimant did not know if there was a written settlement between the Wisconsin Commissioner for Securities and the Respondent since the firm is now defunct and non-responsive. The Arbitrator considered the amount of payment made to any party to the settlement. Based on Claimant's testimony, the Arbitrator considered other relevant terms and conditions of the settlement and found that the settlement merely required the rescission of trades handled by Claimant for a Wisconsin resident during the time he was not registered in Wisconsin. The Arbitrator noted that the settlement was not conditioned on the customer to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount.

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

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 17694 from registration records maintained by the CRD for Claimant Jordan Whitney Waring (CRD Number 1615042) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jordan Whitney Waring 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 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 findings based on the following reasons:

The Claimant became a joint representative for a book of business with a Senior Vice President when Claimant joined Shearson-Lehman in a busy Manhattan branch office in 1989. The Senior Vice President directed the firm's administrative branch personnel to register the Claimant in all states at that time. The administrative personnel registered the Claimant in accordance with the instructions but unwittingly failed to register the Claimant in Wisconsin. The Claimant, who was servicing the accounts of clients in 25 states, was not aware that the firm's administrative people had failed to properly register him in Wisconsin. Claimant was not aware that he was not registered to do securities business in Wisconsin until after the Wisconsin Commissioner of Securities contacted the firm.

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
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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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent Lehman Brothers Inc. 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: December 15, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: March 17, 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

William G. Binckes

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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

William G. Binckes

William G. Binckes
Sole Public Arbitrator

03/23/2021

Signature Date

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March 24, 2021

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