

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Stephen Edward Bohan

Case Number: 20-02506

vs.

Respondents

Centaurus Financial, Inc.
Questar Capital Corporation

Hearing Site: Hartford, Connecticut

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. Members.

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

REPRESENTATION OF PARTIES

For Claimant Stephen Edward Bohan: Brian Luther, Esq., FA Expungement, LLC, Denver, Colorado.

For Respondent Centaurus Financial, Inc.: Paul King, Esq., Brian Gless, Esq., and Michael West, Esq., Cetera Financial, Inc., Anaheim, California.

For Respondent Questar Capital Corporation: Katherine C. Donlon, Esq., Guerra King P.A., Tampa, Florida.

CASE INFORMATION

Statement of Claim filed on or about: August 5, 2020.

Stephen Edward Bohan signed the Submission Agreement: August 5, 2020.

Statement of Answer filed by Respondent Centaurus Financial, Inc. on or about: September 15, 2020.

Centaurus Financial, Inc. signed the Submission Agreement: September 21, 2020.

Statement of Answer filed by Respondent Questar Capital Corporation on or about: September 25, 2020.

Questar Capital Corporation signed the Submission Agreement: September 25, 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 Centaurus Financial, Inc. did not oppose Claimant’s expungement request.

In the Statement of Answer, Respondent Questar Capital Corporation did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1387734, 1741618, and 1457945; and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent Centaurus Financial, Inc. requested that Claimant’s claim for \$1.00 in compensatory damages be denied, and that all forum fees for hearing sessions be assessed against Claimant.

In the Statement of Answer, Respondent Questar Capital Corporation requested that Claimant’s claim for \$1.00 in compensatory damages be denied.

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 December 13, 2020, Claimant advised that the customers in Occurrence Numbers 1387734, 1741618, and 1457945 were 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 February 3, 2021 so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondents Centaurus Financial, Inc. and Questar Capital Corporation participated in the expungement hearing and did not oppose the request for expungement.

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 reviewed the settlement documentation related to Occurrence Number 1387734, 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 conditioned on parties to the settlement not opposing the expungement request. However, the

Arbitrator found that expungement is warranted as the date of the settlement preceded the effective date of the rule against conditioned settlements. The Arbitrator also noted that Claimant contributed to the settlement amount and that the settlement amount paid was beyond the range of a 'cost-of-litigation settlement'. However, the Arbitrator found that expungement is still warranted as the Arbitrator found the claim to be false based upon the evidence presented at the hearing.

The Arbitrator reviewed the settlement documentation related to Occurrence Number 1741618, 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 also reviewed the settlement documentation related to Occurrence Number 1457945, 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 conditioned on parties to the settlement not opposing the expungement request. However, the Arbitrator found that expungement is warranted as the date of the settlement preceded the effective date of the rule against conditioned settlements. Additionally, the Arbitrator noted that Claimant testified he did not have any involvement in the drafting of the settlement agreement and had no knowledge that such a clause was contained in the agreement. The Arbitrator also noted that Claimant contributed to the settlement amount. The Arbitrator found that expungement is still warranted as Claimant's contribution to the settlement was nominal in light of the potential cost of arbitration and litigation.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the settlement agreements, the Statement of Claim, the hearing exhibits, Claimant's BrokerCheck® Report, 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. The Arbitrator recommends the expungement of all references to Occurrence Number 1387734 from registration records maintained by the CRD for Claimant Stephen Edward Bohan (CRD Number 2101383) with the understanding that, pursuant to Notice to Members 04-16, Claimant Stephen Edward Bohan 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 customers complained that the investments were not suitable because the investments in the variable annuity policy were illiquid, could not be withdrawn in the early years without payment of various fees and other surrender charges, and the investment lost value. The customers contended that as their investment advisor, Claimant failed to apprise them of these risks if the investment was withdrawn before elimination of the surrender fees. Based upon the documentary evidence submitted, and Claimant's credible testimony, the Arbitrator found that these restrictions and risks were fully explained to, and presumably understood by the customers. The Arbitrator found that the investment was recommended based upon the fact that the customers intended to keep the investment beyond the term when surrender penalties would apply. The fact that the investment could lose value of the principal was also explained. The Arbitrator found the fact that the fund was in a loss position following the 2008 market fall is not surprising and is not the result of Claimant's breach of a duty or other failure.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1741618 from registration records maintained by the CRD for Claimant Stephen Edward Bohan (CRD Number 2101383) with the understanding that, pursuant to Notice to Members 04-16, Claimant Stephen Edward Bohan 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:

Based on the documents attached to the Statement of Claim, and Claimant's credible testimony, the purchase of the universal life product by the customer was consistent with the customer's investment objectives and the risks associated with the product were fully explained and presumably understood by the customer. The customer should have been fully aware of the fees and surrender charges that he would incur if the funds were withdrawn earlier than 15 years after purchase. The Arbitrator found that the customer was offered options with a much reduced period after which these charges would no longer be applicable, but chose the product with the longer period because of other advantages, and after the customer affirmed that he had no intention of withdrawing those funds sooner.

3. The Arbitrator recommends the expungement of all references to Occurrence Number 1457945 from registration records maintained by the CRD for Claimant Stephen Edward Bohan (CRD Number 2101383) with the understanding that, pursuant to Notice to Members 04-16, Claimant Stephen Edward Bohan 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; and the claim, allegation, or information is false.

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

The Arbitrator found it was abundantly clear from the record and Claimant’s testimony that Claimant did not have any involvement in the customers’ purchase of the complained of product, the REIT. The product was purchased through another registered representative and Claimant was the subject of a complaint solely because the parties used his office to meet.

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 person at the time of the events giving rise to the dispute. Accordingly, as parties, Respondents Centaurus Financial, Inc. and Questar Capital Corporation are each assessed the following:

Member Surcharge	= \$	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 with the Arbitrator @ \$50.00/session	= \$	50.00
Pre-Hearing Conferences: November 30, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: February 3, 2021	1 session	

Total Hearing Session Fees	= \$	100.00
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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

Mark Stuart Gurevitz

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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

Mark Stuart Gurevitz

Mark Stuart Gurevitz
Sole Public Arbitrator

02/23/2021

Signature Date

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February 23, 2021

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