

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Ritchy Guy Scoggin

Case Number: 20-02589

vs.

Respondent
Wells Fargo Clearing Services, LLC

Hearing Site: Houston, Texas

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 Ritchy Guy Scoggin (“Claimant”): Erika Binnix, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Wells Fargo Clearing Services, LLC (“Respondent”): Nuviah Shirazi, Esq., Wells Fargo Legal Department, St. Louis, Missouri.

CASE INFORMATION

Statement of Claim filed on or about: August 12, 2020.
Amended Statement of Claim filed on or about: September 10, 2020.
Claimant signed the Submission Agreement: August 11, 2020.

Statement of Answer filed on or about: September 21, 2020.
Respondent signed the Submission Agreement: August 25, 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 neither admitted or denied the allegations pled in the Statement of Claim, as amended, and took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested expungement of Occurrence Number 1451242, 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 that all fees, costs, and member surcharges incurred by Respondent as a result of the pending action be assessed 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 December 21, 2020, Claimant advised that the customers in Occurrence Number 1451242 (collectively, "Customers" and each a "Customer") were served with the Amended Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On December 29, 2020, Claimant filed an Affidavit confirming that the Customers were served with the Notice. Claimant also filed a copy of the FedEx tracking information available online for the Notice.

On February 28, 2021, a Customer ("P.B.") submitted correspondence opposing Claimant's expungement request.

The Arbitrator conducted a recorded hearing by videoconference on March 4, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, took no position on 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 occurrence in the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 1451242 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 testimony and exhibits.

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 1451242 from registration records maintained by the CRD for Claimant Ritchy Guy Scoggin (CRD Number 3139618) with the understanding that, pursuant to Notice to Members 04-16, Claimant Ritchy Guy Scoggin 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 claim, allegation, or information is false.

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

In correspondence dated February 28, 2021, P.B. asked that the expungement request be denied. In the correspondence, he asserted that Claimant advised him that the investment “would meet my objectives” but that it did not. Claimant testified that P.B.’s objective was to find a relatively short term and safe investment that would be maintained while longer term investments were evaluated. Claimant advised that the bond exchange traded fund (“ETF”) was one option to achieve his objective. The Account Application signed by P.B., as the primary account owner, on January 16, 2008 establishes that he was a sophisticated investor with more than ten years of experience with stocks, bonds, options, and mutual funds. As such, P.B. was aware that any investment indexed to inflation, such as the bond ETF, is, by definition, capable of value moves in both directions. Consequently, P.B. knew or should have known when the purchase was made that there was some possibility of the investment’s value decreasing in subsequent months, as actually happened later that year following the bankruptcy of Lehman Brothers in September 2008. I find, based on the evidence presented, that Claimant’s advice was reasonable and appropriate given the Customers’ stated objectives and any assertion that Claimant misrepresented the bond ETF investment is false and clearly erroneous. In addition, to the extent the Customers’ complaint can be understood as asserting that Claimant advised that the bond ETF could not lose value, the assertion is also false and clearly erroneous.

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
--------------------------	------------

**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

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: December 10, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session =\$ 50.00
Hearing: March 4, 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

Michael S. Yauch

-

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

Michael S. Yauch

Michael S. Yauch
Sole Public Arbitrator

03/18/2021

Signature Date

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.

March 19, 2021

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