

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Walter Giovanni Suarez

Case Number: 20-02610

vs.

Respondent
Chase Investment Services Corp.

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

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

REPRESENTATION OF PARTIES

For Claimant Walter Giovanni Suarez: Tosh Grebenik, Esq., Judex Law, LLC, Broomfield, Colorado.

For Respondent Chase Investment Services Corp.: Michael A. Gross, Esq., Ulmer & Berne LLP, Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: August 13, 2020.

Walter Giovanni Suarez signed the Submission Agreement: August 13, 2020.

Statement of Answer filed by Respondent on or about: September 16, 2020.

Chase Investment Services Corp. signed the Submission Agreement: September 10, 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 request for expungement and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1445311

and 1454161; and compensatory damages in the amount of \$1.00 from Respondent.

In the Statement of Answer, Respondent requested: that the claim for \$1.00 in compensatory damages be denied by the Arbitrator; and that all costs and fees associated with this matter, including FINRA fees, be assessed to Claimant.

At the beginning of 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 or about May 26, 2021, Claimant advised that the customers in Occurrence Numbers 1445311 and 1454161 ("Customer A and Customer B") were served with a copy of the Statement of Claim, notice of the date and time of the expungement hearing and of their right to participate therein. On or about May 26, 2021, Claimant filed with FINRA Dispute Resolution Services proof of service via United States Postal Service upon the underlying Customers, advising that the Customers were served on or about February 13, 2021, with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on June 1, 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, 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 noted that the disputes related to Occurrence Numbers 1445311 and 1454161 were not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony; and Claimant's proof of service that Customer B was served with notice of the date and time of the expungement hearing.

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. Claimant's request for expungement of Occurrence Number 1445311 from his registration records maintained by the CRD is denied.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1454161 from registration records maintained by the CRD for Claimant Walter Giovanni Suarez (CRD Number 4862075) with the understanding that, pursuant to Notice to Members 04-16, Claimant Walter Giovanni Suarez 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 Arbitrator’s recommendation of expungement of Occurrence Number 1454161 on Claimant’s CRD record, as well as any appearance on Claimant’s U4 Amendment and Disclosure one (1) of two (2) appearing on Page nine (9) of Claimant’s BrokerCheck® Report, was based upon undisputed testimony that Customer B acknowledged that his complaint was submitted in error and that he did not suffer any loss, demonstrating that a claim, allegation or information that Claimant gave “poor recommendation/advice” was false as required for expungement under FINRA Rule 2080(b)(1)(C).

In finding that the allegation, claim or information that Claimant gave “poor recommendation/advice” to Customer B was false under FINRA Rule 2080(b)(1)(C), the Arbitrator relied on: (1) testimony by Claimant that Customer B in question is a sophisticated investor who is himself a registered broker, as evidenced by Customer B’s BrokerCheck® Report submitted as an attachment to Claimant’s Statement of Claim; (2) undisputed testimony that Customer B acknowledged that the complaint submitted was “a mistake,” that Customer B had in fact experienced a gain on his investment rather than a loss during the relevant period and that Customer B continued as a client of Claimant for several years thereafter until Claimant changed firms; and (3) evidence that Customer B was served with notice of the date and time of the expungement hearing and chose not to appear at the hearing to contest expungement or present any other evidence to the contrary.

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 firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

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|------------------|------|--------|
| 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:

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|--|-----------|-------|
| One (1) pre-hearing session with a single Arbitrator @ \$50.00/session | = \$ | 50.00 |
| Pre-Hearing Conference: December 7, 2020 | 1 session | |

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|--|-----------|-------|
| One (1) hearing session on expungement request @ \$50.00/session | = \$ | 50.00 |
| Hearing: June 1, 2021 | 1 session | |

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|----------------------------|------|--------|
| 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

Paul C. Tang

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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

Paul C. Tang

Paul C. Tang
Sole Public Arbitrator

06/03/2021

Signature Date

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June 04, 2021

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