

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Michael Charles Meixler

Case Number: 20-02614

vs.

Respondent
Edward Jones

Hearing Site: Phoenix, Arizona

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 Michael Charles Meixler (“Claimant”): Docthor Kennedy, MBA, J.D. and Benjamin Winograd, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Edward Jones (“Respondent”): Connor M. Trafton, Esq., Keesal, Young & Logan, Long Beach, California.

CASE INFORMATION

Statement of Claim filed on or about: August 14, 2020.
Claimant signed the Submission Agreement: August 14, 2020.

Statement of Answer filed by Respondent on or about: October 5, 2020.
Respondent signed the Submission Agreement: September 29, 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 expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Numbers 1076815, 1076812, 1086872, 1143467, 1224698, and 1251881 from Claimant’s CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the

- claim, allegation, or information is factually impossible or clearly erroneous;
2. Expungement of Occurrence Numbers 1076815, 1076812, 1086872, 1143467, 1224698, and 1251881 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
 3. Deletion of all Disclosure Reporting Pages accompanying Occurrence Numbers 1076815, 1076812, 1086872, 1143467, 1224698, and 1251881 in their entirety;
 4. Compensatory damages in the amount of \$1.00 from Respondent; and
 5. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that any other request for relief except for the expungement request, including but not limited to the compensatory damages in the amount of \$1.00, 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 March 10, 2021, Claimant advised that the customers in Occurrence Numbers 1076815, 1076812, 1086872, 1143467, 1224698, and 1251881 ("Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing. On March 15, 2021, Claimant filed an affidavit confirming that the Customers were served with the Statement of Claim and notice of the date and time of the expungement hearing.

On April 20, 2021, the customers in Occurrence Number 1224698 ("Mr. and Mrs. F") submitted a letter expressing their opposition to Claimant's expungement requests ("Customer F Letter").

The Arbitrator conducted a recorded, telephonic hearing on April 22, 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 Number 1076815, 1076812, 1086872, 1143467, 1224698, and 1251881 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 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 Numbers 1076815, 1076812, 1086872, 1143467, 1224698, and 1251881 from registration records maintained by the CRD for Claimant Michael Charles Meixler (CRD Number 2315506) with the understanding that, pursuant to Notice to Members 04-16, Claimant Michael Charles Meixler 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 claim, allegation, or information is false.

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

Occurrence Number 1076815

On May 3, 2002, the customer in Occurrence Number 1076815 (“Mr. T”) filed a complaint alleging Claimant recommended a stock to diversify his tax deferred portfolio. After the purchase, Mr. T claimed that he discovered the stock did not pay dividends and was considered aggressive. At the times of purchase (1999 & 2000), the stock was classified as a growth stock and Respondent’s recommendation was a strong buy. According to the complaint summary, at the times of purchase, Mr. T would have received trade confirmations providing the details of the trade. In addition, monthly statements would have contained the Respondent’s “asset category/our recommendation”. The claim was denied by Respondent and Mr. T did not pursue the claim in court or arbitration.

The allegation of unsuitability is false because Claimant had a reasonable basis to believe the stock was a suitable investment due to Respondent’s rating as a strong buy. The allegation is clearly erroneous as the suitability of an investment is determined at the time the investment is made. The loss incurred was the result of market fluctuation and is a risk of stock ownership.

The allegation of misrepresentation is false and clearly erroneous as the details of the purchase were explained at the time and disclosed in trade confirmations and monthly statements. The stock was classified as a growth stock by Respondent. No evidence

supporting Mr. T's claims was presented, other than Mr. T's initial complaint, which was denied by Respondent.

Occurrence Number 1076812

On May 7, 2002, the customer in Occurrence Number 1076812 ("Ms. D") complained that Claimant did not contact her regarding the investment performance in her account. Claimant testified that Ms. D was difficult to reach by phone, but Claimant and Ms. D did have intermittent contact. Claimant's exhibits showed that Ms. D received monthly statements. Ms. D's claim was denied by Respondent and not pursued in arbitration or court.

The Arbitrator finds the claim is false and clearly erroneous as the decline in the account value was attributed to market fluctuation and not because of Claimant's alleged failure to contact Ms. D. In addition, no evidence supporting Ms. D's claim was presented other than her complaint, which was denied by Respondent.

Occurrence Number 1086872

On July 10, 2002, the customer in Occurrence Number 1086872 ("Mr. J") filed a complaint with Respondent alleging Claimant assured him the account would grow and he would have the ability to withdraw income each month. This claim was denied by Respondent and Mr. J did not pursue it in arbitration or court.

The claim that the account would grow, and Mr. J would have the ability to withdraw money, is false and clearly erroneous as Claimant never provided him with any guarantees and no evidence of a guarantee of performance was ever produced.

Mr. J's claim is clearly erroneous because it did not arise out of any alleged wrongdoing on the part of Claimant but was due to stock market fluctuations.

The claim that Mr. J's portfolio declined is false and clearly erroneous because market loss is not a basis for a claim.

Occurrence Number 1143467

On June 6, 2003, the customer in Occurrence Number 1143467 ("Mr. R") filed a complaint with Respondent alleging every stock purchased was a technology stock and Claimant talked him into purchasing them on margin. Claimant testified that he did speak with Mr. R on many occasions and while the account was technology heavy, not every stock purchased was a technology stock. Also, Mr. R made his own decision on what stocks to buy. Claimant testified that he tried to talk Mr. R out of using the account as a margin account but he was unsuccessful.

Respondent denied Mr. R's claim and Mr. R never pursued it in court or arbitration. The allegation of over concentration in technology stock and establishing a margin account are false and clearly erroneous as Mr. R directed and authorized all trading activities in his account.

There is no basis for a claim of account losses as the losses were due to market fluctuations. No evidence supporting Mr. R's claims was presented other than his initial complaint, which was denied by Respondent.

Occurrence Number 1224698

On October 18, 2004, Mr. and Mrs. F filed a complaint with Respondent alleging that Claimant denied their request to have stop losses placed on their stock, their portfolio was overweighted in technology stock, and they lost half of the value of their portfolio. Respondent denied the complaint and Mr. and Mrs. F did not pursue the claim in court or arbitration.

The allegations made in Mr. and Mrs. F's complaint, and restated in the Customer F Letter, are false and clearly erroneous. In the Customer F Letter, Mr. and Mrs. F stated that in 2003, they told Claimant they wanted out of the market. However, this statement could not have occurred because (a) Mr. and Mrs. F transferred their account from Respondent in March 2002, therefore, any conversation taking place in 2003 could not have been with Claimant and (b) while they were the customers of Claimant, Mr. and Mrs. F's account never had a balance equal to the amount they claimed that they have lost. Moreover, it would not have been in Claimant's interest to refuse to enter stop loss positions because stop losses would have generated commissions.

Aside from Mr. and Mrs. F's complaint, no evidence of a Claimant's failure to follow instructions was ever presented. In the absence of any evidence supporting the claim, such allegation is unfounded and baseless. Here, Mr. and Mrs. F directed and authorized all trading activities so any claim of over concentration lies with them, not with Claimant.

Occurrence Number 1251881

In April 2005, the customer in Occurrence Number 1251881 ("Mr. C") filed a complaint with Respondent alleging that he was somewhat surprised when his entire stake had been invested. Claimant already left Respondent in May 2003. Furthermore, Mr. C alleged Claimant made the investment decisions without his consultation. Respondent denied the claim and Mr. C did not pursue the claim in court or arbitration.

Mr. C's allegations are false and clearly erroneous. First, Mr. C's account with Respondent was not a discretionary trading account and no evidence was presented to the contrary. Second, Mr. C directed and authorized all trading activities and no evidence of a failure to follow instructions was presented, therefore, this allegation is unfounded and baseless. Finally, the allegation of poor performance is denied because market fluctuation leading to a loss is not a basis for a claim.

As to all six Occurrence Numbers, expungement is recommended.

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(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:

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 a single Arbitrator @ \$50.00/session	=\$ 50.00
Pre-Hearing Conference: December 9, 2020 1 session	

One (1) hearing session on expungement request @ \$50.00/session	=\$ 50.00
Hearing: April 22, 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

Donald Dreyfus

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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

Donald Dreyfus

Donald Dreyfus
Sole Public Arbitrator

05/10/2021

Signature Date

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May 11, 2021

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