

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Fanie Gouws

Case Number: 20-02688

vs.

Respondent
Commerz Markets LLC

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 Fanie Gouws: Dochter Kennedy, MBA, J.D., and Chelsea Masters, J.D., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Commerz Markets LLC: Michael Fruchter, Esq., Commerz Bank AG, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: August 19, 2020.
Fanie Gouws signed the Submission Agreement: August 19, 2020.

Respondent did not file a Statement of Answer nor sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following cause of action: expungement of Form U5/termination based on the defamatory nature of the entry.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of the Form U5 corresponding with Occurrence Number 361496, and those relevant portions of the Form U4, from Claimant's CRD record on the basis that the statement is defamatory in nature, misleading, and/or erroneous, to include expungement of the Reason for Termination explanation on Claimant's CRD; alternatively, expungement of the broker comment accompanying Occurrence Number 361496;

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

In a Joint Stipulation dated January 14, 2021, Respondent denied the allegations made in the Statement of Claim against it; supported Claimant's request for a hearing on his expungement request; and Claimant agreed that he did not allege any wrongdoing by Respondent and withdrew all claims for monetary damages.

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 expungement of the Termination Explanation and Reason for Termination relating to Fanie (NMI) Gouws (CRD Number 1408928) filed by Commerz Markets LLC, formerly known as Dresdner Kleinwort Benson North America LLC, on March 24, 1997 and maintained by the CRD, with an employment end date of June 30, 1997. The Reason for Termination shall be changed to Voluntary and the Termination Explanation shall be deleted in its entirety and shall appear blank. This directive shall apply to all references relating to the Termination Explanation and Reason for Termination, including information in the Registrations Summary, Registrations with Prior Employers page maintained by the CRD.
2. The Arbitrator further recommends expungement of all references to Occurrence Number 361496. This directive shall apply to all references to the Internal Review DRP, including the information included in Legacy Occurrence Number -1.
3. The Arbitrator further recommends expungement of all references to Occurrence Number 1008310. This directive shall apply to all references to the Termination DRP, including any legacy information.
4. The above recommendations are made based on the defamatory nature of the information. The registration records are not automatically amended to include the changes indicated above. Claimant Fanie Gouws must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure Department ("CRED") for review.
5. 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 Commerz Markets LLC 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: November 25, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	=\$	50.00
Hearing: April 13, 2021	1 session	

Total Hearing Session Fees	=\$	100.00
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The Arbitrator has assessed \$75.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$25.00 of the hearing session fees to Respondent.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATOR

Madelon M. Rosenfeld

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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

Madelon M. Rosenfeld

Madelon M. Rosenfeld
Sole Public Arbitrator

04/29/2021

Signature Date

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April 30, 2021

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