

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Christopher Douglas Risher

Case Number: 20-02704

vs.

Respondent
First Allied Securities, Inc.

Hearing Site: Louisville, Kentucky

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 Christopher Douglas Risher (“Claimant”): Michael O’Gara, Esq. and Docthor Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent First Allied Securities, Inc. (“Respondent”): Jeremy Wooden, Esq., Cetera Financial Group, Inc., El Segundo, California.

CASE INFORMATION

Statement of Claim filed on or about: August 20, 2020.
Claimant signed the Submission Agreement: August 20, 2020.

Statement of Answer filed by Respondent on or about: September 24, 2020.
Respondent signed the Submission Agreement: September 23, 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 expungement of Occurrence Number 2021560, 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 denial of Claimant's request for \$1.00 in compensatory damages and that forum costs and fees be assessed against Claimant.

At the hearing, Claimant withdrew the request for \$1.00 in compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On February 23, 2021, Claimant advised that the customer in Occurrence Number 2021560 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On March 1, 2021, Claimant filed an Affidavit confirming that the Customer was served with Notice. Claimant also filed a copy of the FedEx tracking information available online for the Notice.

On March 1, 2021, the Customer submitted correspondence opposing Claimant's request for expungement ("Customer's Submission").

The Arbitrator conducted a recorded, telephonic hearing on April 20, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent appeared at the expungement hearing.

The Customer participated in the expungement hearing and opposed the expungement request.

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 also reviewed the settlement documentation related to Occurrence Number 2021560, 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.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's and the Customer's testimony, Claimant's Exhibits, and the Customer's Submission.

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 2021560 from registration records maintained by the CRD for Claimant Christopher Douglas Risher (CRD Number 4325125) with the understanding that, pursuant to Notice to Members

04-16, Claimant Christopher Douglas Risher 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:

The Customer transferred a part of his portfolio to Claimant in 2015. The Customer, who worked in commercial real estate sales, stated on the record that he was an experienced investor. According to information the Customer provided to Respondent, he had a high net worth and significant income. The Customer wished to purchase insurance and to pay for it with income from other investments. The Customer invested in multiple real estate investment trusts (“REITs”). All of the Customer’s investments were within the guidelines and requirements for an investor of his age and stated financial status. The REIT investment documents described, in detail, their risks and suitability requirements. The Customer also signed and initialed documents from two of the REITs which disclosed their commission amounts. After reviewing the insurance costs, the Customer purchased a smaller policy than he initially wanted.

The Customer transferred his portfolio away from Claimant in May 2017. In February 2019, the Customer filed an arbitration case against Respondent, which was settled. The Customer stated at the expungement hearing that his principal complaint was the cost of fees and insurance premiums. He testified that he cancelled the insurance policy and bought a significantly less expensive policy. However, he was aware of and accepted the fees when he invested, and he did not produce the less expensive policy to demonstrate that it was comparable to the original.

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

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: November 30, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: April 20, 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

John F. Burns

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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

John F. Burns

John F. Burns
Sole Public Arbitrator

04/23/2021

Signature Date

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April 23, 2021

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