

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Richard Thomas Iannacone

Case Number: 20-02741

vs.

Respondent

A. G. Edwards & Sons, Inc.

Hearing Site: Manchester, New
Hampshire

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 Richard Thomas Iannacone: Dochter Kennedy, MBA, J.D. and Chelsea Masters, Esq., AdvisorLaw LLC, Westminster, Colorado.

For Respondent A. G. Edwards & Sons, Inc.: Michael Naccarato, Esq., Wells Fargo Legal Department, St. Louis, Missouri.

CASE INFORMATION

Amended Statement of Claim filed on or about: September 23, 2020.

Richard Thomas Iannacone signed the Submission Agreement: August 21, 2020.

Statement of Answer filed by Respondent on or about: November 13, 2020.

A. G. Edwards & Sons, Inc. signed the Submission Agreement: October 23, 2020.

CASE SUMMARY

In the Amended 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 Amended Statement of Claim, Claimant requested: expungement of Occurrence Number 1250458; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not set forth a specific relief request

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.

A Statement of Claim was filed on August 21, 2020. It was not served on Respondent and not considered by the Arbitrator.

On April 20, 2021, Claimant advised that the customer in Occurrence Number 1250458 was served with the Amended Statement of Claim and notice of the date and time of the expungement hearing. On April 26, 2021, Claimant filed an Affidavit confirming that the customer was served with the Amended Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a hearing by videoconference on June 28, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and did not oppose the request for expungement.

The customer did not participate in the expungement hearing. The Arbitrator found that the customer 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 1250458 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 BrokerCheck® Report, the pleadings, Claimant's testimony, and the 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 1250458 from registration records maintained by the CRD for Claimant Richard Thomas Iannacone (CRD Number 254526) with the understanding that, pursuant to Notice to Members 04-16, Claimant Richard Thomas Iannacone 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:

Claimant’s BrokerCheck Report states the customer complaint as “alleged fiduciary responsibilities were violated in relationship to her investment objective”. The Claimant testified that the customer wrote a complaint to Respondent Edwards, Inc.; Respondent investigated the complaint and found that no action was warranted. There exists no written record of the complaint and no action was ever taken on the complaint. There was no settlement in this matter. The only fact regarding losses comes from the Claimant’s testimony confirming that the customer did incur losses.

Further, Claimant testified there were only minimal interactions between him and the customer once the account was opened. He testified that the customer gave trading authority to her husband. All trade confirmations were sent to the customer and, finally, it was a non-discretionary account. There was no fiduciary relationship.

In addition, following receipt of the complaint, Claimant scheduled a meeting with the customer and her husband. During that meeting with the customer, Claimant confirmed that her husband, and not him, had conducted the trades. No objection was registered by the customer’s spouse. There is no record of any type of further action by the customer either through arbitration or the courts after the meeting.

I find the testimony of the Claimant was credible. Specifically, Claimant was forthright, direct and answered all of the questions posed by his attorney and the undersigned. It is clear that the dispute between the customer and the broker is clearly not about a failure to act properly as a Fiduciary.

In the absence of any evidence to the contrary, the Arbitrator find that the allegation is false and erroneous and recommends expungement.

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 firm that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent A.G. Edwards & Sons, Inc. 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 with a single Arbitrator @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: January 20, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: June 28, 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

Jim Geiger

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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

Jim Geiger

Jim Geiger
Sole Public Arbitrator

07/06/2021

Signature Date

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July 06, 2021

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