

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Bryan R. Cogliano

Case Number: 20-02745

vs.

Respondent  
New England Securities Corporation

Hearing Site: Philadelphia, Pennsylvania

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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 Bryan R. Cogliano: Dochter Kennedy, MBA, J.D. and Kurt Zimmerman, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent New England Securities Corporation: Martin Harris, Esq., Harris & Affiliates, Ltd., Chicago, Illinois.

**CASE INFORMATION**

Statement of Claim filed on or about: August 21, 2020.

First Amended Statement of Claim filed on or about: September 18, 2020.

Second Amended Statement of Claim filed on or about: December 8, 2020.

Bryan R. Cogliano signed the Submission Agreement: August 21, 2020.

Statement of Answer filed by Respondent on or about: December 11, 2020.

New England Securities Corporation signed the Submission Agreement: December 21, 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 took no position on Claimant’s expungement request.

### **RELIEF REQUESTED**

In the Statement of Claim, First Amended Statement of Claim and Second Amended Statement of Claim, Claimant requested: expungement of Occurrence Number 1434635; 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 requested that the Arbitrator assess all forum fees and session fees to Claimant.

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 December 8, 2020, Claimant filed a Motion to Amend the Amended Statement of Claim. Respondent did not file a response to the motion. By Order dated December 24, 2020, the Arbitrator granted the Motion to Amend the Amended Statement of Claim.

On January 13, 2021, Claimant advised that the customer in Occurrence Number 1434635 was served with the Second Amended Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded hearing by videoconference on February 25, 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 customer also participated in the expungement hearing and did not oppose 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 1434635, 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 contributed to the settlement amount. However, expungement is still appropriate as it was necessary for the Claimant to contribute to the settlement to file a claim against Claimant's errors and omissions (E&O) insurance. The customer complaint was a result of an inadvertent error made by the firm's back office, not the Claimant.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings; Claimant's BrokerCheck® Report; the General Acknowledgment & Release; Claimant's testimony; Claimant's Post-Hearing Brief; and the customer's testimony.

## **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 1434635 from registration records maintained by the CRD for Claimant Bryan R. Cogliano (CRD Number 4367535) with the understanding that, pursuant to Notice to Members 04-16, Claimant Bryan R. Cogliano 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 statement in the Claimant's CRD record misrepresents Claimant's action and is false. Claimant's firm's back office failed to follow the customer's instructions. The disclosure on Claimant's CRD record falsely states that Claimant himself failed his customer. Upon realizing that his order to liquidate the customer's funds was not executed, Claimant took all necessary measures to reimburse the customer for his loss. The error was not Claimant's; it was that of his back office which failed to execute the Claimant's order.

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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent New England Securities 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 11, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00  
Hearing: February 25, 2021 1 session

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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**

Louis P. Wagman

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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**

***Louis P. Wagman***

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Louis P. Wagman  
Sole Public Arbitrator

**03/11/2021**

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Signature Date

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March 12, 2021

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