

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jason Warren Plemons

Case Number: 20-02770

vs.

Respondent
U.S. Bancorp Investments, Inc.

Hearing Site: Seattle, Washington

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 Jason Warren Plemons (“Claimant”): Dochter Kennedy, MBA, J.D. and Harris Freedman, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent U.S. Bancorp Investments, Inc. (“Respondent”): Edward B. Magarian, Esq. and Trevor Brown, Esq., Dorsey & Whitney LLP, Minneapolis, Minnesota.

CASE INFORMATION

Statement of Claim filed on or about: August 24, 2020.
Claimant signed the Submission Agreement: August 24, 2020.

Statement of Answer filed by Respondent on or about: October 14, 2020
Respondent signed the Submission Agreement: October 13, 2020.

CASE SUMMARY

Claimant asserted a claim seeking expungement of customer dispute information from registration records maintained by the Central Registration Depository (“CRD”).

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1505285 from his CRD record, pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation or information is factually impossible or clearly erroneous;
2. Expungement of Occurrence Number 1505285 from his CRD record, 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 Number 1505285;
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:

1. Denial of Claimant's Statement of Claim in all respects and dismissal with prejudice;
2. Assessment of all forum fees, costs, and expenses against Claimant;
3. Attorneys' fees, costs, and expenses in connection with defending against Claimant's claims before FINRA; and
4. Such other and further relief as the Panel deems just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

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

On January 5, 2021, Claimant filed an Affidavit confirming that the customer in Occurrence Number 1505285 was served with the Statement of Claim and notice of the date and time of the expungement hearing.

On January 29, 2021, Respondent filed a Motion to Dismiss pursuant to Rule 13206 of the Code of Arbitration Procedure ("Code") ("Motion to Dismiss"). On February 12, 2021, Claimant filed a response opposing the Motion to Dismiss. On February 17, 2021, Respondent filed a reply in support of the Motion to Dismiss. On February 22, 2021, the Arbitrator heard oral arguments on the Motion to Dismiss.

On February 22, 2021, the Arbitrator granted the Motion to Dismiss on the following grounds:

Claimant's arguments that (a) an SEC rule in 2016 requiring member websites to include a reference and hyperlink to BrokerCheck® and (b) the ongoing publication of the disclosure which is the subject of this action, should be construed as the occurrence or event giving rise to the claim under Rule 13206 of the Code are not well taken.

The purpose of Rule 13206 of the Code is to deal with stale claims. Under the plain language, meaning and purpose of Rule 13206 of the Code, the occurrence or event giving rise to the claim are the facts at issue in Occurrence Number 1505285, which was identified and referred to in Claimant's Statement of Claim. Occurrence Number 1505285 is the occurrence or event that Claimant seeks to expunge.

The events related to Occurrence Number 1505285 took place in 2010. The request for expungement was made in 2020, well beyond the six-year eligibility period set forth in Rule

13206 of the Code. Therefore, Claimant's request for expungement is ineligible under Rule 13206 of the Code.

Respondent's Motion to Dismiss pursuant to Rule 13206 of the Code is granted by the Arbitrator without prejudice to any right Claimant has to file in court; Claimant is not prohibited from pursuing his claims in court pursuant to Rule 13206(b) of the Code.

AWARD

After considering the pleadings, the Motion to Dismiss and all responses thereto, and the arguments presented during the February 22, 2021 pre-hearing conference, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims are dismissed without prejudice pursuant to Rule 13206(b) of the Code.

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:

Two (2) pre-hearing sessions with a single Arbitrator @ \$50.00/session	= \$	100.00
Pre-Hearing Conferences: December 18, 2020	1 session	
February 22, 2021	1 session	
<hr/> 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

Robert M. Stein

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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

Robert M Stein

Robert M Stein
Sole Public Arbitrator

03/08/2021

Signature Date

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March 09, 2021

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