

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Mamode Abdullah Oozeerally

Case Number: 20-02908

vs.

Respondent

Hennion & Walsh, Inc.

Hearing Site: Jersey City, New Jersey

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 Mamode Abdullah Oozeerally: Jennifer Woods Burke, Esq., Hennion & Walsh, Inc., Parsippany, New Jersey.

For Respondent Hennion & Walsh, Inc.: Mitra Niknam, Esq., Hennion & Walsh, Inc., Parispany, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: September 1, 2020.

Mamode Abdullah Oozeerally signed the Submission Agreement: September 1, 2020.

Statement of Answer filed by Respondent on or about: September 2, 2020.

Hennion & Walsh, Inc. signed the Submission Agreement: September 2, 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 stated that it had no objection to Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1995902 and compensatory damages in the amount of \$1.00 from Respondent.

In the Statement of Answer, Respondent did not delineate a relief request.

At the beginning of 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 February 1, 2021, Claimant filed proof of service that the underlying customer in Occurrence Number 1995902 ("Customer") was served via Federal Express with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on March 9, 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 did not participate in the expungement. 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 also reviewed the settlement documentation related to Occurrence Number 1995902, 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 BrokerCheck® Report; the settlement agreement; account documentation for multiple accounts; service record; and statements.

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 1995902 from registration records maintained by the CRD for Claimant Mamode Abdullah Oozeerally (CRD Number 4245327) with the understanding that, pursuant to Notice to Members 04-16, Claimant Mamode Abdullah Oozeerally 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.

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons:

FINRA adopted Rule 12805 to establish “procedures that arbitrators must follow before recommending expungement of customer dispute information related to arbitration cases from the broker’s CRD record.”

The grounds for expungement are specified in Rule 2080(b)(1)(A-C). They are: (A) that the claim, allegation or information is factually impossible or clearly erroneous; (B) the registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds; or (C) that the claim, allegation or information is false. Additionally, Rule 2080(b)(2) provides an alternate ground for expungement if it “would have no material adverse effect on investor protection, the integrity of the CRD system, or regulatory requirements.”

The Customer became a client of Respondent in 2005. A sophisticated, experienced investor, he had a high-risk tolerance with a long-term perspective and was interested in growth and income. The Customer invested in high-grade tax-free municipals, including paper issued by the Commonwealth of Puerto Rico. This portfolio was substantially similar to the investments he held at other bond houses and performed according to expectations until the Puerto Rican debt crisis resulted in downgrades and/or defaults.

The Customer subsequently filed an arbitration against Respondent seeking, inter alia, the sum of \$100,000.00 for unspecified allegations of lack of suitability, fraud, and unauthorized trading. The claim was settled by the firm (Claimant not taking part or making any contribution) for a portion of the relief requested in the interests of saving the cost of defense. The settlement was not conditioned on consent to expungement of the occurrence.

It appears from the testimony and documentary evidence that the Customer’s claim is clearly erroneous, false or both. The Customer was an experienced bond investor and authorized the trades which were memorialized in trade confirmations and account statements. His portfolio was well-diversified and at the time of purchase the Puerto Rican paper was clearly suitable and met his risk and investment objectives. By reason of the foregoing, the occurrence should be expunged from his CRD pursuant to Rule 2080(b)(1)(A) and (C).

Claimant also testified as to the adverse effect of this disclosure has had on his business development efforts.

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:

One (1) pre-hearing session with a single Arbitrator @ \$50.00/session	=\$ 50.00
Pre-Hearing Conference: January 22, 2021	1 session

One (1) hearing session on expungement request @ \$50.00/session	=\$ 50.00
Hearing: March 9, 2021	1 session

Total Hearing Session Fees	=\$ 100.00
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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 E. Anderson

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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 E. Anderson

Robert E. Anderson
Sole Public Arbitrator

03/23/2021

Signature Date

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.

March 24, 2021

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