

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Rodney Matthew Beary

Case Number: 20-02910

vs.

Respondent
Girard Securities, Inc.

Hearing Site: Los Angeles, California

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 Rodney Matthew Beary (“Claimant”): Michael Bessette, Esq., HLBS Law, Westminster, Colorado.

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

CASE INFORMATION

Statement of Claim filed on or about: September 1, 2020.
Claimant signed the Submission Agreement: September 1, 2020.

Statement of Answer filed by Respondent on or about: October 21, 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 request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Numbers 1550500, 1658225, and 1667937 from Claimant’s

CRD records pursuant to FINRA Rule 2080, as:

- a. the claim, allegation, or information is factually impossible or clearly erroneous;
 - b. Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and/or
 - c. the claim, allegation, or information is false;
2. Compensatory damages in the amount of \$1.00; and
 3. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. A statement from the Arbitrator on the issue of whether to order recommending that the customer complaints be expunged from Claimant's CRD records in the form required by FINRA Rule 2080;
2. Denial of \$1.00 in compensatory damages; and
3. An order that all forum costs and fees are assessed against 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 January 27, 2021, Claimant advised that the customer in Occurrence Number 1550500 ("Ms. S") and the customers in Occurrence Number 1667937 ("Mr. G and Mrs. G") were served with the Statement of Claim and notice of the date and time of the expungement hearing. Claimant further advised that the customer in Occurrence Number 1658225 ("Mr. NG") was deceased and provided his death record.

On February 1, 2021, Claimant filed an Affidavit confirming that the Ms. S, Mr. G, and Mrs. G were served with the Statement of Claim and notice of the date and time of the expungement hearing. The Affidavit also noted that Claimant was unable to serve the Statement of Claim and Notice of Expungement hearing to Mr. NG, as he is deceased.

Hereinafter, Ms. S, Mr. G, and Mrs. G are collectively referred to as the "Customers".

On March 5, 2021, Ms. S submitted a written statement, opposing Claimant's expungement request.

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 Customers did not participate in the expungement hearing. The Arbitrator found that the Customers 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 occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Numbers 1550500, 1658225, and 1667937, considered the amount of payment made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to the settlement amounts.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report; settlement documents from Occurrence Numbers 1550500, 1658225, and 1667937; Claimant's exhibits; Claimant's testimony; and oral representations and arguments by counsel for both parties.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, 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 Numbers 1550500, 1658225, and 1667937 from registration records maintained by the CRD for Claimant Rodney Matthew Beary (CRD Number 4110232) with the understanding that, pursuant to Notice to Members 04-16, Claimant Rodney Matthew Beary 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 registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The claim, allegation, or information is false.

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

The allegations against Claimant were not supported by persuasive evidence. From the testimony and documents provided, Claimant gave full disclosure and necessary information to the customers in all three occurrences and the customers were sufficiently sophisticated for the particular investments as to risk and time horizon. The investments were freely chosen by the customers who had knowledge and were informed. The investments appeared to be suitable, and there were no complaints until the nationwide economic downturn of 2008 and ongoing, as to which no culpability attached to Claimant

or his Broker-Dealer. All three occurrences were settled by the Broker-Dealer and its insurance companies, and Claimant did not participate or contribute.

The requests for expungement were supported by written documents and oral testimony. It was likely that the alleged investor "losses" were caused by world economic conditions, not actions of Claimant who, indeed, did everything that could be expected from him. It is possible that the complaints were triggered by plaintiff attorneys "trolling" for cases. The customers in all three occurrences were fully informed and plainly agreed to the investments. The settlements were largely for nuisance value.

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
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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: December 14, 2020	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

Kirtley M. Thiesmeyer

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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

Kirtley M. Thiesmeyer

Kirtley M. Thiesmeyer
Sole Public Arbitrator

04/12/2021

Signature Date

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April 12, 2021

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