

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Walter Francisco Pardo

Case Number: 20-02911

vs.

Respondent
McLaughlin, Piven, Vogel Securities, Inc.

Hearing Site: New York, New York

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 Walter Francisco Pardo: Dochter Kennedy, MBA, J.D., Frances Menzer, J.D., and Zachary Morse, J.D., AdvisorLaw, LLC, Westminster, Colorado.

Respondent for McLaughlin, Piven, Vogel Securities, Inc. did not enter an appearance.

CASE INFORMATION

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

Walter Francisco Pardo signed the Submission Agreement: September 1, 2020.

Respondent did not file a Statement of Answer and did not sign the Submission Agreement.

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”).

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1272567 and 1345868; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deems just and equitable.

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.

Respondent did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure (“Code”) and is bound by the determination of the Arbitrator on all issues submitted.

On March 23, 2021, Claimant advised that the customers in Occurrence Number 1345868 are both deceased and provided proof of death records. Therefore, the customers were not served with the Statement of Claim and notice of the date and time of the expungement hearing.

On March 26, 2021, Claimant filed an Affidavit confirming that the customer in Occurrence Number 1272567 was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded hearing by videoconference on April 14, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent did not participate in the expungement hearing.

The customer in Occurrence Number 1272567 also 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 occurrences in the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 1272567 was not settled and, therefore, there was no settlement document to review.

Claimant testified that the settlement agreement related to Occurrence Number 1345868 was not available due to Respondent being out of business. Claimant further testified that the settlement was between Respondent and the customers and that he had no involvement in the settlement nor an understanding as to why his employer settled. The Arbitrator considered the amount of payment made to any party to the settlement; and based on Claimant’s testimony, found 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. For these reasons, the Arbitrator determined that expungement is still appropriate.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, exhibits, Claimant’s BrokerCheck® Report, and Claimant’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 1272567 from registration records maintained by the CRD for Claimant Walter Francisco Pardo (CRD Number 2154112) with the understanding that, pursuant to Notice to Members 04-16, Claimant Walter Francisco Pardo 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, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

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

The customer's claim was for loss of value of assets recommended by Claimant. The assets recommended were garden variety Fanny Mae and other bonds. The basis for the customer's claim appears to have been the bonds lost value. The Arbitrator finds Claimant's recommended assets were not unusual and that a loss of value isn't grounds for a valid complaint against a broker. Therefore, the customer's claim involved no improper sales practice and the loss of value is not a valid reason to deny expungement.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1345868 from registration records maintained by the CRD for Claimant Walter Francisco Pardo (CRD Number 2154112) with the understanding that, pursuant to Notice to Members 04-16, Claimant Walter Francisco Pardo 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, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

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

The customer's claim was for loss of value of assets recommended by Claimant. The trade practices were clearly not improper and involved a tax strategy that was appropriate. Some assets were sold at a loss as part of that strategy and the loss of value is not grounds for a customer complaint against a broker. Therefore, the customer's claim involved no improper sales practice and the loss of value is not a valid reason to deny expungement.

3. 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 events giving rise to the dispute. Accordingly, as a party, Respondent McLaughlin, Piven, Vogel Securities, Inc. is assessed the following:

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| 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: March 9, 2021 | 1 session | |
| March 23, 2021 | 1 session | |

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|--|-----------|-------|
| One (1) hearing session on expungement request @ \$50.00/session | = \$ | 50.00 |
| Hearing: April 14, 2021 | 1 session | |

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| Total Hearing Session Fees | = \$ | 150.00 |
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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

Paul Bennett Marrow

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Arbitrator's Signature

Paul Bennett Marrow

Paul Bennett Marrow
Sole Public Arbitrator

04/26/2021

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.

April 27, 2021

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