

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Juan Chung Chen

Case Number: 20-02933

vs.

Respondent
J.P. Morgan Securities, LLC

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

REPRESENTATION OF PARTIES

For Claimant Juan Chung Chen: Dochter Kennedy, MBA, J.D. and Erica Binnix, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent J.P. Morgan Securities, LLC: Thomas J. Cahill, Esq., Duane Morris LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: September 2, 2020.

Juan Chung Chen signed the Submission Agreement: September 2, 2020.

Statement of Answer filed by Respondent on or about: November 20, 2020.

J.P. Morgan Securities, LLC signed the Submission Agreement: November 30, 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 denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1584831; 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 Claimant's voluntary withdrawal of the request for \$1.00 in compensatory damages.

At the conclusion 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 advised that the customer in Occurrence Number 1584831 was served 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 23, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and took no position on Claimant's expungement request.

The customer 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 occurrence in the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 1584831 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the exhibits, including evidence of the customer's withdrawal of the complaint; Claimant's testimony; and Claimant's BrokerCheck® Report.

AWARD

After considering the pleadings, the testimony and evidence presented at the telephonic 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 1584831 from registration records maintained by the CRD for Claimant Juan Chung Chen (CRD Number 4458915) with the understanding that, pursuant to Notice to Members 04-16, Claimant Juan Chung Chen 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; and the claim, allegation, or information is false.

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

The customer is a high net worth individual who was a discretionary account customer of Respondent when he was assigned to the Claimant when Claimant joined Respondent’s firm in 2006. The customer converted to non-discretionary status in 2011 during a period of market turbulence. This meant that the customer’s direction and compliance were necessary for any trading activity. During this period of negative market activity, while on his way to a vacation, the customer stopped in New York for a meeting with the Claimant and his support group to sort out a strategy. During the meeting, the customer told Claimant to make changes in his account that “limited exposure” but without any specific instructions as to actual trades to implement. Claimant attempted to elicit that information by attempting to contact the customer on multiple occasions but to no avail. During this period and upon the customer’s return, the account in question absorbed significant losses and the customer filed a complaint alleging “failure to follow instructions”. Subsequently, Claimant and his associates, with supporting documentation, informed the customer of his responsibilities as a non-discretionary customer to personally direct and approve all trading activity. At this point, apparently convinced of his mistake and the honest efforts of Claimant, the customer dropped the complaint while remaining a customer of Respondent albeit with another advisor/broker. Meanwhile, the original complaint remains on Claimant’s BrokerCheck and CRD Reports even though the citation reads “closed, no action”. Since the complaint was withdrawn, Claimant’s alleged culpability does not really need to be judged here. Based on the customer’s own action, the claim is clearly erroneous, and the Claimant was not involved in any wrongdoing. Relying on the merits, the evidence is clear that there is no question that the expungement request should be granted.

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

**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 J.P. Morgan Securities, LLC 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 11, 2021	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: March 23, 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

Paul S. Biederman

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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 S. Biederman

Paul S. Biederman
Sole Public Arbitrator

03/30/2021

Signature Date

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March 31, 2021

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