

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
David Douglas Davis

Case Number: 20-02935

vs.

Respondent  
Chase Investment Services Corp.

Hearing Site: Houston, Texas

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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 David Douglas Davis (“Claimant”): Benjamin Winograd, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Chase Investment Services Corp. (“Respondent”): Jeffrey S. Dunlap, Esq. and Trevor J. Hardy, Esq., Ulmer & Berne LLP, Cleveland, Ohio.

**CASE INFORMATION**

Statement of Claim filed on or about: September 2, 2020.  
Amended Statement of Claim filed on or about: March 18, 2021.  
Claimant signed the Submission Agreement: September 2, 2020.

Statement of Answer filed on or about: October 21, 2020.  
Amended Statement of Answer filed on or about: March 30, 2021.  
Respondent signed the Submission Agreement: October 20, 2020.

**CASE SUMMARY**

In the Amended 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 Amended Statement of Answer, Respondent denied any wrongdoing but did not oppose Claimant’s expungement request.

### **RELIEF REQUESTED**

In the Amended Statement of Claim, Claimant requested expungement of Occurrence Numbers 1347711 and 1391851, compensatory damages in the amount of \$1.00, and any and all other relief that the Arbitrator deems just and equitable.

In the Amended Statement of Answer, Respondent did not request any relief.

At the hearing, Claimant withdrew the request for \$1.00 in compensatory damages.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On March 18, 2021, Claimant filed a Motion to Amend the Statement of Claim (“Motion to Amend”), to which no response was filed. In an Order dated March 23, 2021, the Arbitrator granted the Motion to Amend.

On April 13, 2021, Claimant advised that the customers in Occurrence Numbers 1347711 (“Customer A”) and 1391851 (“Customer B”) (collectively, “Customers”) were served with the Amended Statement of Claim and notice of the date and time of the expungement hearing (“Notices”). On April 19, 2021, Claimant filed an Affidavit confirming that the Customers were served with the Notices. Claimant also filed a copy of the FedEx tracking information available online for the Notices.

On May 6, 2021, Customer B submitted an email providing information about his complaint and opposing Claimant’s request for expungement.

The Arbitrator conducted a recorded, telephonic hearing on June 3, 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 Amended Statement of Answer, did not oppose the request for expungement.

Customer A did not participate in the expungement hearing. The Arbitrator found that Customer A had notice of the expungement request and hearing. Customer B participated in the expungement hearing and opposed the expungement request.

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 Number 1347711, 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.

The Arbitrator noted that the dispute related to Occurrence Number 1391851 was not settled and, therefore, there was no settlement documentation to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Statement of Claim, Amended Statement of Claim, Statement of Answer, Amended Statement of Answer, Claimant's testimony, witness testimony, Customer B's written statement, Customer B's testimony, Claimant's BrokerCheck® Report, and Confidential Release Agreement.

### **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 Numbers 1347711 and 1391851 from registration records maintained by the CRD for Claimant David D. Davis (CRD Number 3047789) with the understanding that, pursuant to Notice to Members 04-16, Claimant David D. Davis 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.

#### **Occurrence Number 1347711**

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

Claimant met with Customer A multiple times prior to the investment in a fixed annuity. Claimant also met with Customer A several times after the investment was made. Customer A understood the investment. The investment met the objectives of Customer A at the time it was made. Claimant followed the instructions of Customer A, pertaining to the sale of the fixed annuity.

#### **Occurrence Number 1391851**

Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

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

Claimant met with Customer B several times prior to making the investment. Claimant assessed Customer B's objectives prior to making the investment. Claimant met with Customer B after the investment was made. Customer B understood the investment. Claimant followed the instructions of Customer B regarding the investment.

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 @ \$50.00/session	= \$	50.00
Pre-Hearing Conference: December 28, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: June 3, 2021	1 session	

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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**

Sherry R. Wetsch

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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**

***Sherry R. Wetsch***

Sherry R. Wetsch  
Sole Public Arbitrator

**06/08/2021**

Signature Date

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June 08, 2021

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