

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Carol Lee King

Case Number: 20-02942

vs.

Respondent
1st Global Capital Corp.

Hearing Site: Charlotte, North Carolina

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 Carol Lee King: Jake L. Jacobsen, Esq., Benjamin Winograd, Esq. and Dochter Kennedy, MBA, J.D., Advisor Law, LLC, Westminster, Colorado.

For Respondent 1st Global Capital Corp.: Judith Knudsen, Vice President and Deputy General Counsel, Avantax Investment Services, Inc., Irving, Texas.

CASE INFORMATION

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

Carol Lee King signed the Submission Agreement: September 2, 2020.

Statement of Answer filed by Respondent on or about: October 21, 2020.

1st Global Capital Corp. signed the Submission Agreement: October 20, 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 does not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1666487; 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 denial of Claimant's request for \$1.00 in compensatory damages.

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 May 24, 2021, Claimant filed an Affidavit of Service upon the customer in Occurrence Number 1666487 ("Customer") with the Statement of Claim and notice of the date and time of the expungement hearing. The Affidavit stated that service was accomplished by FedEx mailing on May 18, 2021, which is confirmed in the FedEx on-line tracking system, with delivery made on May 20, 2021 at 12:07 p.m.

The Arbitrator conducted a recorded, telephonic hearing on June 29, 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 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 also reviewed the settlement documentation related to Occurrence Number 1666487, 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 contributed to the settlement amount because Claimant and her insurance company determined that due to the cost and time the litigation involved that it was better to settle, solely in order to avoid the cost of litigation.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: all of the filed pleadings; Claimant's hearing testimony and BrokerCheck® Report; the Settlement Agreement; Respondent's support of the expungement request; and Claimant's representation that the Customer was a litigious person.

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 1666487 from registration records maintained by the CRD for Claimant Carol Lee King (CRD Number 4890394) with the understanding that, pursuant to Notice to Members 04-16, Claimant Carol Lee King 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:

The allegation is false and factually impossible because Claimant’s conduct was, at all times, in accordance with the standards of all FINRA Rules. Claimant met with the Customer numerous times to discuss her investment intents and needs. Claimant also had a previous ongoing relationship with the Customer, as Claimant’s accounting firm was Customer’s personal accountant. The Customer had an investment objective of capital appreciation with an aggressive risk factor. The security at issue fit well within these parameters. The Customer had sufficient other liquidity and possessed more than the minimum amount of net worth for investing. Claimant and the Customer considered the tax ramifications of the investment. The Customer received and signed the Disclosure Form (which, inter alia, disclosed that Claimant would be entitled to a commission). The Customer received the prospectus. The Customer was provided advice both before and after Claimant made an actual trip to personally view and investigate the real estate behind the security. Claimant was not involved in the fraud perpetrated by Customer’s tax preparer.

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(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

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 22, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: June 29, 2021 1 session

Total Hearing Session Fees = \$ 100.00

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

Harvey R. Linder

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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

Harvey R. Linder

Harvey R. Linder
Sole Public Arbitrator

07/01/2021

Signature Date

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July 01, 2021

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