

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Michael A. Darvish

Case Number: 20-02954

vs.

Respondent
Spartan Capital 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

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Michael A. Darvish: Christopher Seps, Esq., Ulmer & Berne LLP, Chicago, Illinois.

Respondent Spartan Capital Securities, LLC did not enter an appearance in this matter.

CASE INFORMATION

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

Michael A. Darvish signed the Submission Agreement: September 2, 2020.

Spartan Capital Securities, LLC did not file a Statement of Answer or 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 Number 1978604; and compensatory damages in the amount of \$1.00 from Respondent.

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.

The Claim Notification letter notified Respondent that FINRA rules require parties to use the online DR Portal on a mandatory basis (except pro se investors) and that failure to register for the DR Portal will prevent the submission of pleadings, selection of arbitrators, and receipt of notification relating to case information and deadlines. Respondent failed to register for the DR Portal.

The Arbitrator determined that Respondent is, therefore, bound by the Arbitrator's ruling and determination.

On January 5, 2021, Claimant advised that the customer in Occurrence Number 1978604 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 February 11, 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 also did not participate in the expungement hearing and did not oppose the expungement request. 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 1978604, 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.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report, the pleadings, Claimant's testimony, and the exhibits.

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. Claimant's claim for \$1.00 in compensatory damages is denied.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1978604 from registration records maintained by the CRD for Claimant Michael A. Darvish (CRD Number 3243141) with the understanding that, pursuant to Notice to Members 04-16, Claimant Michael A. Darvish 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 finding of fact:

The claim, allegation, or information is false.

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

Claimant established by testimony and documentary evidence that the allegations in the underlying customer complaint were false as relates to Claimant. The accounts in question were owned by the customer before they were moved to Claimant's then-current brokerage firm. The customer was a sophisticated and risk-taking investor who often made his own investment decisions and frequently ignored Claimant's advice to handle the investments more conservatively. The customer even sent the advice of other financial advisors to Claimant for comment. When Claimant's advice was contrary to the other financial advisors, the customer chose not to take Claimant's advice. Furthermore, the customer in question continues to be a customer of Claimant and moved his accounts to remain with Claimant when Claimant changed employment to his current brokerage firm. In addition, the customer in question wrote a letter of support for Claimant, stating "I fully support the removal of every reference to that arbitration [occurrence number 1978604] from his record. I hope that this letter assists Mr. Darvish in obtaining expungement."

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 Spartan Capital Securities, LLC is assessed the following:

Member Surcharge = \$ 150.00

ARBITRATOR

Jill Pilgrim

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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

Jill Pilgrim

Jill Pilgrim
Sole Public Arbitrator

02/19/2021

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.

February 22, 2021

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