

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Bin Zhai

Case Number: 20-02995

vs.

Respondent
Avantax Investment Services, Inc.

Hearing Site: San Francisco, California

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 Bin Zhai (“Claimant”): Chelsea Masters, Esq., HLBS Law, Westminster, Colorado.

For Respondent Avantax Investment Services, Inc. (“Respondent”): Judith Knudsen, Esq., Avantax Investment Services, Inc., Irving, Texas.

CASE INFORMATION

Statement of Claim filed on or about: September 3, 2020.
Claimant signed the Submission Agreement: September 3, 2020.

Statement of Answer filed on or about: October 30, 2020.
Respondent signed the Submission Agreement: October 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 did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1893985 from Claimant’s CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible

- or clearly erroneous;
2. Expungement of Occurrence Number 1893985 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
 3. Deletion of all Disclosure Reporting Pages accompanying Occurrence Number 1893985;
 4. Compensatory damages in the amount of \$1.00 from Respondent; and
 5. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested compensatory damages in the amount of \$1.00 be denied.

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 April 14, 2021, Claimant advised that the customer in Occurrence Number 1893985 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. On April 19, 2021, Claimant filed an Affidavit confirming that the Customer 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 June 24, 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. 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 1893985, 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. The Arbitrator further noted that while Claimant contributed to the settlement amount, expungement is still warranted because without admitting fault, the firm refunded the fees to the Customer. The Arbitrator found that this was done in the interest of customer relations and not because of liability concerns.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony and exhibits, including the documents supplied to the Customer when the account was opened, which showed the fee schedule, and the emails and documents sent to the Customer during the life of the account in which Claimant continued to explain the fees.

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 1893985 from registration records maintained by the CRD for Claimant Bin Zhai (CRD Number 4624278) with the understanding that, pursuant to Notice to Members 04-16, Claimant Bin Zhai 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:

The Customer complained that the amount of the fees of the managed account was not explained to him. The Arbitrator finds that this claim was false. Claimant explained the fee structure when the account was opened. During the time the account was open, Claimant recommended that the Customer move to a less expensive fee-based account by moving from the managed account to the brokerage account structure but the Customer refused to follow his advice.

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 that employed the associated person 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 with a single Arbitrator @ \$50.00/session	= \$	50.00
Pre-Hearing Conference: January 19, 2021	1 session	
One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: June 24, 2021	1 session	
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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

Helen Marinak Blohm

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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

Helen Marinak Blohm

Helen Marinak Blohm
Sole Public Arbitrator

07/05/2021

Signature Date

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July 06, 2021

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