

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Justin Matthew Bachman

Case Number: 20-03057

vs.

Respondent

BrokerBank Securities, 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 Justin Matthew Bachman (“Claimant”): Chelsea Masters, Esq., HLBS Law, Westminster, Colorado.

For Respondent BrokerBank Securities, Inc. (“Respondent”): Philip Wright, BrokerBank Securities, Inc., Minnetonka, Minnesota.

CASE INFORMATION

Statement of Claim filed on or about: September 8, 2020.

Amended Statement of Claim filed on or about: February 26, 2021.

Second Amended Statement of Claim filed on or about: March 4, 2021.

Claimant signed the Submission Agreement: September 8, 2020.

Respondent did not file a Statement of Answer or sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Amended Statement of Claim, and Second Amended 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:

1. Expungement of Occurrence Number 1733708 from Claimant's CRD records pursuant to FINRA Rule 2080, as:
 - a. the claim, allegation, or information is factually impossible or clearly erroneous; and/or
 - b. Claimant was not involved in the alleged investment-related sales practice, violation, forgery, theft, misappropriation, or conversion of funds; and/or
 - c. the claim, allegation, or information is false.
2. Compensatory damages in the amount of \$1.00 from Respondent; and
3. Any and all other relief that the Arbitrator deems just and equitable.

In the Amended Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1733708 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 1733708 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(B), as Claimant was not involved in the alleged investment-related sales practice, violation, forgery, theft, misappropriation, or conversion of funds;
3. Expungement of Occurrence Number 1733708 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
4. Deletion of any Disclosure Reporting Pages accompanying Occurrence Number 1733708; and
5. Any and all other relief that the Arbitrator deems just and equitable.

In the Second Amended Statement of Claim, Claimant additionally requested 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, having appeared, is bound by the determination of the Arbitrator on all issues submitted.

Respondent did not file a Statement of Answer. The Arbitrator determined that Respondent was served with the Claim Notification letter dated September 16, 2020 by regular mail, and the Overdue Notice (including the Statement of Claim) dated November 6, 2020 by regular mail and FedEx, as evidenced by the FedEx delivery confirmation. The Arbitrator also determined that Respondent was served with the Notification of Arbitrator dated December 9, 2020 by regular mail and FedEx, as evidenced by the FedEx delivery confirmation. The Arbitrator determined that Respondent is, therefore, bound by the Arbitrator's ruling and determination.

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.

On February 3, 2021, the Arbitrator issued an Order for Claimant to file an Amended Statement of Claim. On February 26, 2021, Claimant filed the Amended Statement of Claim.

On February 23, 2021, Claimant advised that the customer in Occurrence Number 1733708 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. On February 24, 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.

On March 4, 2021, Claimant filed a Motion to Amend Statement of Claim to which no response was filed. On March 16, 2021 the Arbitrator granted Claimant's Motion to Amend Statement of Claim.

The Arbitrator conducted a recorded, telephonic hearing on July 15, 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. 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 1733708 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: pleadings and Claimant's 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. Respondent is liable for and shall pay to Claimant \$1.00 in compensatory damages.
2. The Arbitrator recommends the expungement of all references to Occurrence Number 1733708 from registration records maintained by the CRD for Claimant Justin Matthew Bachman (CRD Number 6412695) with the understanding that, pursuant to Notice to Members 04-16, Claimant Justin Matthew Bachman 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.

The claim, allegation, or information is false.

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

Pursuant to FINRA Rule 2080(b)(1)(A), the claim is false, because the actions that led to the Customer’s dissatisfaction were those of fraud on the part of Bay Area Equity Group (“BAEG”), not Claimant’s. Claimant had no association with BAEG and he did not have any association with the Customer beyond assisting her in reaching Provident to open the account requested. Claimant was not involved with any fraudulent behavior. The claim is clearly erroneous, because Claimant had no contractual agreement with the Customer. The Customer could not identify the existence of a contract or a contractual provision which Claimant can be said to have violated.

Pursuant to FINRA Rule 2080(b)(1)(B), Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

Pursuant to FINRA Rule 2080(b)(1)(C), the claim, allegation, or information is false. Claimant was dismissed from this matter by Department VI of the Eighth Judicial District Court, in and for Clark County, Nevada, on February 2, 2015.

3. 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	= \$ 1,575.00
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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	= \$	1,900.00
Member Process Fee	= \$	3,750.00

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: January 26, 2021	1 session	
One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: July 15, 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

Ralph A. Cotton

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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

Ralph A. Cotton

Ralph A. Cotton
Sole Public Arbitrator

07/28/2021

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.

July 29, 2021

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