

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Samuel Izaguirre

Case Number: 20-03085

vs.

Respondents
Chase Investment Services Corp.
LPL Financial LLC

Hearing Site: Boca Raton, Florida

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. Members

REPRESENTATION OF PARTIES

For Claimant Samuel Izaguirre: N. Nancy Ghabai, Esq., Ghabai Law Group LLC, Boston, Massachusetts.

For Respondent Chase Investment Services Corp. (“Chase”): Michael A. Gross, Esq., Ulmer & Berne, LLP, Boca Raton, Florida.

For Respondent LPL Financial LLC (“LPL”): Sara B. Davis, Esq., LPL Financial, LLC, Boston, Massachusetts.

CASE INFORMATION

Statement of Claim filed on or about: September 9, 2020.

Samuel Izaguirre signed the Submission Agreement: September 9, 2020.

Statement of Answer filed by Respondent Chase on or about: October 6, 2020.

Chase Investment Services Corp. signed the Submission Agreement: October 6, 2020.

Statement of Answer filed by Respondent LPL on or about: November 3, 2020.

LPL Financial LLC signed the Submission Agreement: November 3, 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 its Statement of Answer, Respondent Chase did not oppose Claimant's expungement request and asserted various affirmative defenses.

In its Statement of Answer, Respondent LPL supported Claimant's expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1520061 and 2046319; compensatory damages in the amount of \$1.00 from Respondents; and any and all other relief that the Arbitrator deems just and equitable.

In its Statement of Answer, Respondent Chase requested the denial of Claimant's request for compensatory damages of \$1.00 and the assessment of all costs and FINRA fees to Claimant.

In its Statement of Answer, Respondent LPL did not delineate a specific relief request.

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 October 4, 2021, Claimant filed a Certificate of Service confirming that the customers in Occurrence Numbers 1520061 ("Customers A and B") and 2046319 ("Customer C") were each 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 November 3, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent Chase participated in the expungement hearing and, as stated in its Statement of Answer, did not oppose the request for expungement.

Respondent LPL participated in the expungement hearing and, as stated in its Statement of Answer, supported the request for expungement.

Customers A, B and C did not participate in the expungement hearing. The Arbitrator found that Customers A, B and C 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 occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 2046319, 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 1520061 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: Exhibit 1 – Claimant’s BrokerCheck® Report; Exhibit 2- Customer C’s Account Application; Exhibit 3 – Customer C’s Alternative Investment Package; Exhibit 4 - NorthStar Subscription Agreement; Exhibit 5 – Customer C’s FINRA Statement of Claim; Exhibit 6 - FINRA LPL Answer; Exhibit 7 – Customer C’s Settlement Agreement; Exhibit 8 - FINRA Rule 2080; and Exhibit 9 - FedEx receipts to Customers A, B and C.

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 1520061 and 2046319 from registration records maintained by the CRD for Claimant Samuel Izaguirre (CRD Number 4835113) with the understanding that, pursuant to Notice to Members 04-16, Claimant 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:

Claimant testified in detail about how he met with each client on more than one occasion to obtain information about the customers and find out their investments, risks, assets, experience. Clients also filled out and signed paperwork to confirm objectives and risks. Each client also received prospectuses and had an opportunity to read and ask additional questions before making the investment.

Occurrence Number 1520061 - After meeting with Customers A and B and listening to them, Claimant recommended a mutual fund. This was different than the CD and savings accounts Customers A and B had with the bank. Claimant explained the investment of \$100,000.00 and how the market volatility would impact the fund. Customers A and B completed the applications, and risk questionnaire and the mutual fund was a proper and appropriate investment based on Customers A and B’s information according to Claimant’s testimony. Claimant testified that he did not guarantee a return. He did explain the difference between the types of funds and the fees - 4.5% up front versus a 1% annual. This was a

conservative fund and consistent with the objectives of Customers A and B. Once the complaint was made, Respondent Chase discussed it with Claimant and determined he had not done anything that was inappropriate. There was no discipline or reprimand. Respondent Chase decided to return the investment to keep Customers A and B as banking clients. Claimant was not involved in the decision and did not contribute to any refund. The claim is clearly erroneous and false.

Occurrence Number 2046319 - Customer C was a 60-year-old educated male who works for the Miami Dade County School Board. Customer C has many investments and a pension, and he was looking for something different. On the LPL documents which were entered into evidence, Customer C stated his investment as over \$1,200,000.00. Customer C was still working and had years and years of investment experience. Claimant discussed the North Star Real Estate Investment Trust and reviewed the prospectus and LPL documents. The documents and testimony of Claimant show that Customer C was aware of the risk and that there were no guarantees. (See Exhibits 3 and 4) It was not until 2019 - five years after the investment and when the distributions stopped - that Customer C filed his complaint against Respondent LPL. Respondent LPL discussed the complaint with Claimant and filed an answer denying any wrongdoing. Claimant wanted to fight the complaint. Respondent LPL decided to settle for business reasons. Claimant was not involved in the decision and did not contribute to the settlement. The initial investment was \$124,000.00. Based on the testimony of Claimant and the Exhibits, this claim is clearly erroneous and false. The investment was suitable and there was no misrepresentation.

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 parties, Respondents Chase and LPL are each assessed the following:

Member Surcharge = \$ 150.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

April 8, 2021, postponement requested by Claimant	= WAIVED
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Total Postponement Fee	= WAIVED

The Arbitrator has waived postponement fee.

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 28, 2020 1 session	
One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing: November 3, 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

Kimberly A. Gilmour

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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

Kimberly A. Gilmour

Kimberly A. Gilmour
Sole Public Arbitrator

11/12/2021

Signature Date

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November 12, 2021

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