

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Joseph Patrick Roop

Case Number: 20-03094

vs.

Respondent
Kalos Capital, Inc.

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 Joseph Patrick Roop: Zachary Morse and Dochter Kennedy, MBA, J.D., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Kalos Capital, Inc.: John Dillon, CCO, Kalos Capital, Inc., Alpharetta, Georgia.

CASE INFORMATION

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

Joseph Patrick Roop signed the Submission Agreement: September 9, 2020.

Kalos Capital, Inc. did not sign the Submission Agreement and did not file a Statement of Answer.

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 Numbers 2038779 and 2073321; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deemed just and equitable.

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.

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.

On May 27, 2021, Claimant advised that the customers in Occurrence Numbers 2038779 and 2073321 ("Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing.

On June 1, 2021, Claimant filed an Affidavit confirming that the Customers in Occurrence Numbers 2038779 and 2073321 were served via Federal Express, and the Customers in Occurrence Number 2073321 were also served by Certified Mail through the United States Postal Service, with the Statement of Claim and notice of the date and time of the expungement hearing.

On October 18, 2021, Claimant filed an Affidavit confirming that the Customers in Occurrence Numbers 2038779 and 2073321 were served via Federal Express, and the Customers in Occurrence Number 2073321 were also served by Certified Mail through the United States Postal Service to the customers in Occurrence Number 2073321, 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 18, 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 Customers also did not participate in the expungement hearing. The Arbitrator found that the Customers 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 Numbers 2038779 and 2073321, considered the amount of payment made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to the settlement amounts.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony and Exhibits 1 through 20.

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 request for expungement of Occurrence Number 2073321 from his registration records maintained by the CRD is denied.
2. The Arbitrator recommends the expungement of all references to Occurrence Number 2038779 from registration records maintained by the CRD for Claimant Joseph Patrick Roop (CRD Number 2774470) with the understanding that, pursuant to Notice to Members 04-16, Claimant Joseph Patrick Roop 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 registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

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

Evidence was presented at the expungement hearing that led the Arbitrator to believe that Claimant was not involved in the alleged sales practice violations that are the subject of Occurrence Number 2038779. Claimant's testimony and documentary evidence (Claimant's Exhibits 1 through 20) showed that Claimant was not the account representative on the accounts at issue and that Claimant was not involved in any discussions, advice or recommendations regarding the investment products at issue. Therefore, Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds. The Arbitrator reviewed the settlement agreement, and considered the amounts paid to the relevant party and considered all other relevant terms and conditions of settlement. The Arbitrator concluded that Claimant should be granted expungement of the charges set forth by the Customers.

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 = \$ 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

Postponement Fees

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

June 30, 2021-July 1, 2021, postponement requested by Claimant = \$ 50.00

Total Postponement Fees = \$ 50.00

The Arbitrator has assessed the total postponement fees to Claimant.

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:

Three (3) pre-hearing sessions with a single Arbitrator @ \$50.00/session = \$ 150.00
Pre-Hearing Conferences: January 5, 2021 1 session
February 1, 2021 1 session
August 27, 2021 1 session

Two (2) hearing sessions on expungement request @ \$50.00/session = \$ 100.00
Hearings: November 18, 2021 2 sessions

Total Hearing Session Fees = \$ 250.00

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

Mary E. Woytek

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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

Mary E. Woytek

Mary E. Woytek
Sole Public Arbitrator

12/02/2021

Signature Date

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December 02, 2021

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