

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
George Peter Koulouris

Case Number: 20-03106

vs.

Respondent
Keybank Capital Markets Inc.

Hearing Site: Syracuse, 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

REPRESENTATION OF PARTIES

For Claimant George Peter Koulouris: Jennifer P. Farrar, Esq., Farrar Law PLLC, Tomball, Texas.

For Respondent Keybank Capital Markets Inc.: Halden R. Schwallie, Esq. and Jeffrey S. Dunlap, Esq., Ulmer and Berne LLP, Cleveland, Ohio.

CASE INFORMATION

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

George Peter Koulouris signed the Submission Agreement: September 9, 2020.

Statement of Answer filed by Respondent on or about: October 19, 2020.

Keybank Capital Markets Inc. signed the Submission Agreement: October 21, 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 denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 894022, 1001363, 1105013 and 1122795; compensatory damages in the amount of \$1.00 from

Respondent; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent denied any and all allegations of wrongdoing contained in the Statement of Claim and reserves its right to amend and supplement its Statement of Answer.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On October 20, 2020, Respondent filed a Motion to Dismiss pursuant to Rule 13206 of the Code of Arbitration Procedure ("Code"). On January 20, 2021, Claimant filed an Opposition to the Motion to Dismiss. On February 16, 2021, Respondent filed a Reply in support of the Motion to Dismiss. On April 8, 2021, the Arbitrator held a recorded pre-hearing conference to hear oral arguments on the Motion to Dismiss. On April 13, 2021, the Arbitrator granted the Motion to Dismiss on the grounds that:

On October 20, 2020, Respondent filed a Motion to Dismiss under FINRA Rule 13206 which states that: No claim shall be eligible for submission to arbitration under the Code where six years have elapsed from the occurrence or event giving rise to the claim. Respondent contends that Claimant's Statement of Claim should be dismissed because he waited almost 18 years after the most recent customer complaint to seek expungement.

Claimant argues that discovery must take place in order to determine when Claimant "Discovered" the wrongdoing or occurrence and that he should not be held to a six year "line in the sand" without discovery. Claimant does not dispute that a U4 was filed with FINRA for each event and that his CRD had been updated for each event. The Arbitrator notes that the Claimant provided comments on three of the four complaints at issue. There is no comment for the claim which was settled. Claimant further contends that the Eligibility Rule may be subject to interpretation where a series of misrepresentations were made or where there was a continuing occurrence or event giving rise to the dispute. The Arbitration Manual provides, in general, that "arbitrators may find that there is a continuing occurrence or event giving rise to the dispute. For example, although a customer purchased stock 10 years ago, there are allegations of ongoing fraud starting with the purchase but continuing to a date within six years of the date the claim was filed." In such circumstances, a panel could consider beginning the six-year period once such circumstances have ceased. However, the Claimant has offered no facts or evidence that there was any misrepresentation or continuing occurrence on the part of the Respondent what would extend the beginning of the six-year period.

Claimant has additionally requested the Arbitrator to consider the equities involved in ensuring that the information provided to the investing public through the CRD and FINRA's Broker Check is accurate and does not provide false misleading information to the investing public, which could damage the integrity of the system. Notice 08-79 provides in part that "accurate dispute information, is an important aspect of investor protection". The Panel concludes that the information on the Claimant's Broker Check/CRD provides sufficient information for the investing public to make a determination as to the importance of the complaints.

While the Arbitrator does not rule on the validity of Claimant's expungement request, it is important to note that FINRA's Notice to Arbitrators and Parties on expanded expungement guidance (updated 9/2017) provides in part that expungement is an extraordinary remedy that should be recommended only under appropriate circumstances. Customer dispute information should be expunged only when it has no meaningful investor protection or regulatory value. Once information is expunged from the CRD system, it is permanently deleted and thus no longer available to the investing public, regulators, or prospective broker-dealer employers.

Respondent's Motion to Dismiss pursuant to Rule 13206 of the Code is granted by the Arbitrator without prejudice to any right Claimant has to file in court; Claimant is not prohibited from pursuing his claims in court pursuant to Rule 13206(b) of the Code.

AWARD

After considering the pleadings, the Motion to Dismiss and all responses thereto, and the arguments presented during the pre-hearing conference, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed without prejudice pursuant to Rule 13206(a) of the Code.

FEES

Pursuant to the Code of Arbitration Procedure ("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 events giving rise to the dispute. Accordingly, as a party, Respondent Keybank Capital Markets Inc. is assessed the following:

Member Surcharge = \$ 150.00

Late Pre-Hearing Cancellation Fees

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

February 5, 2021, cancellation requested by the Claimant. = \$ 100.00

Total Late Pre-Hearing Cancellation Fees = \$ 100.00

The Arbitrator has assessed the total late pre-hearing cancellation 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
March 17, 2021	1 session
April 8, 2021	1 session

Total Hearing Session Fees	= \$ 150.00
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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

Stuart M. Schwartz

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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

Stuart M. Schwartz

Stuart M. Schwartz
Sole Public Arbitrator

04/15/2021

Signature Date

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April 16, 2021

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