

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Brian Rieman

Case Number: 20-03138

vs.

Respondent
Hennion & Walsh, Inc.

Hearing Site: Jersey City, New Jersey

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

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Brian Rieman: Jennifer Woods Burke, Esq., Hennion & Walsh, Inc., Parsippany, New Jersey.

For Respondent Hennion & Walsh, Inc.: Jennifer Burke, Esq., Hennion & Walsh, Inc., Parsippany, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: September 10, 2020.

Amended Statement of Claim filed on or about: February 9, 2022.

Brian Rieman signed the Submission Agreement: September 10, 2020.

Statement of Answer filed by Respondent on or about: September 14, 2020.

Hennion & Walsh, Inc. signed the Submission Agreement: September 14, 2020.

CASE SUMMARY

In the Statement of Claim, as amended, 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: expungement of Occurrence Numbers 1919489; 1994096; 1987654; 1987190; and compensatory damages in the amount of \$1.00 from Respondent.

In the Amended Statement of Claim, Claimant added a request for expungement of Occurrence Number 1970456.

In the Statement of Answer, Respondent did not set forth 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 December 24, 2020, Claimant advised that the customers in Occurrence Numbers 1919489 and 1994096 were served with the Statement of Claim and notice of the date and time of the expungement hearing.

On January 4, 2021, Claimant advised that the customer in Occurrence Number 1987654 was served with the Statement of Claim and notice of the date and time of the expungement hearing.

On January 27, 2022, Claimant advised that the customers in Occurrence Number 1970456 were served with the Amended Statement of Claim and notice of the date and time of the expungement hearing.

On March 11, 2021, Claimant filed a request to withdraw the request for expungement of Occurrence Number 1987190 without prejudice. Respondent did not oppose the request. By Order dated March 12, 2021, the Arbitrator granted Claimant's request to withdraw the request for expungement of Occurrence Number 1987190 without prejudice.

During the hearing on January 26, 2022, Claimant made an oral Motion to Amend the Statement of Claim to add Occurrence Number 1970456. Respondent did not oppose the motion. By Order dated January 26, 2022, the Arbitrator granted Claimant's Motion to Amend the Statement of Claim.

The Arbitrator conducted recorded hearings by videoconference on February 4, 2021; March 11, 2021; January 26, 2022; and February 9, 2022, 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 customers in Occurrence Numbers 1919489; 1987654; 1994096; and 1970456 did not participate in the expungement hearings. 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 1919489; 1987654; 1994096; and 1970456, 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 BrokerCheck® Report, the pleadings, Claimant's testimony, and the 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. The Arbitrator recommends the expungement of all references to Occurrence Number 1919489 from registration records maintained by the CRD for Claimant Brian Rieman (CRD Number 4427713) with the understanding that, pursuant to Notice to Members 04-16, Claimant Brian Rieman 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:

This was an oral complaint regarding an investment which was downgraded after purchase and presumably the allegation was of unsuitability. This is false because customer was regularly informed of the status of the investments at issue which were investment grade at the date of purchase. The customers remain clients of the Claimant and still refers customers to him, which evidences continued confidence in Claimant's advice.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1987654 from registration records maintained by the CRD for Claimant Brian Rieman (CRD Number 4427713) with the understanding that, pursuant to Notice to Members 04-16,

Claimant Brian Rieman 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, 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 alleged he was risk averse, the investments at issue were high risk, that Claimant didn't update him on the investments, and he suffered losses. The customer's account application, investment objective and risk tolerance letter, the existence of other investment accounts with similar risk held by the customer elsewhere, Respondent's policy of selling only investment grade bonds, the customer's receipt of regular account statements and weekly or bi-weekly phone updates from Claimant, and the fact that over time, the customer's net return was positive show the customer's claims to be false.

3. The Arbitrator recommends the expungement of all references to Occurrence Number 1994096 from registration records maintained by the CRD for Claimant Brian Rieman (CRD Number 4427713) with the understanding that, pursuant to Notice to Members 04-16, Claimant Brian Rieman 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, 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 customers stated that the investments were unsuitable and beyond their risk tolerance. This is false because the customers had substantial prior experience investing at other firms, represented their risk tolerance as medium, and their investment objectives as growth and income when opening the account. The investments were suitable when purchased and the customers rejected advice to swap out the investments for others, making it evident that they made their own investment decisions. The customers received regular account statements and phone calls from Claimant.

4. The Arbitrator recommends the expungement of all references to Occurrence Number 1970456 from registration records maintained by the CRD for Claimant Brian Rieman (CRD Number 4427713) with the understanding that, pursuant to Notice to Members 04-16,

Claimant Brian Rieman 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, 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 customers claim unsuitability and loss, but the claims are false because the customers are sophisticated investors who made their own investment decisions about what to buy and when to sell, received regular account statements and calls from Claimant, and made a substantial profit on the investments at issue.

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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Hennion & Walsh, Inc. is assessed the following:

Member Surcharge = \$ 150.00

Postponement Fees

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

March 16, 2021, postponement requested by the parties	Waived
June 7, 2021, postponement requested by the parties	Waived
October 28, 2021, postponement requested by the parties	= \$ 50.00
December 21, 2021, postponement requested by the parties	= \$ 50.00

Total Postponement Fees = \$ 100.00

The Arbitrator has assessed the total postponement fees to Claimant.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

March 16, 2021, cancellation requested by the parties	= \$ 600.00
June 7, 2021, cancellation requested by the parties	= \$ 600.00

Total Last-Minute Cancellation Fees	= \$ 1,200.00
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The Arbitrator has assessed the total last-minute 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:

One (1) pre-hearing session with a single Arbitrator @ \$50.00/session	= \$ 50.00
Pre-Hearing Conference: August 9, 2021	1 session

Four (4) hearing sessions on expungement request @ \$50.00/session	= \$ 200.00
Hearings: February 4, 2021	1 session
March 11, 2021	1 session
January 26, 2022	1 session
February 9, 2022	1 session

Total Hearing Session Fees	= \$ 250.00
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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

Edith M. Novack

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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

Edith M. Novack

Edith M. Novack
Sole Public Arbitrator

02/18/2022

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.

February 22, 2022

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