

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Chi-Hong Chu

Case Number: 20-03180

vs.

Respondent
American Portfolios Financial Services, 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

This case was administered under the Special Proceeding option for simplified cases.

REPRESENTATION OF PARTIES

For Claimant Chi-Hong Chu: Robert Moses, Esq., RJM Counsel PLLC, New York, New York.

Respondent American Portfolios Financial Services, Inc. did not enter an appearance.

CASE INFORMATION

Amended Statement of Claim filed on or about: September 15, 2020.
Chi-Hong Chu signed the Submission Agreement: September 11, 2020.

American Portfolios Financial Services, Inc. did not file a Statement of Answer or sign the Submission Agreement.

CASE SUMMARY

In the 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 Amended Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1882090, 1932679, and 1978631; and compensatory damages in the amount of \$1.00 from Respondent.

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.

A Statement of Claim was filed on September 11, 2020. It was not served on Respondent and not considered by the Arbitrator.

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 19, 2021, Claimant advised that the customers in Occurrence Numbers 1882090, 1932679, and 1978631 were served with the Amended Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on May 24, 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 noted that the disputes related to Occurrence Numbers 1882090, 1932679 and 1978631 were not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, exhibits, Claimant's BrokerCheck® Report, and Claimant's testimony.

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 1882090 from registration records maintained by the CRD for Claimant Chi-Hong Chu (CRD Number 4615119) with the understanding that, pursuant to Notice to Members 04-16, Claimant Chi-Hong Chu 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; and the claim, allegation, or information is false.

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

The customers became clients of Claimant in 2013. They were looking for guaranteed retirement income with a moderate investment profile and risk tolerance. After extensive conversations with the customers, they purchased three variable annuities from Jackson National (Perspective II) with income protection and a guaranteed minimum withdrawal benefit. In 2016, the customers complained to the firm that these annuities had not been properly described. The firm denied their complaint, and they took no further action. This occurrence should be expunged on the ground that is clearly erroneous and/or false. The annuities’ features and risks were described to them in extensive detail, and the customers signed all requisite acknowledgements and disclosures.

Chu also testified to the adverse impact this occurrence have had on his business.

The interests of consumer protection and awareness being in no way negatively implicated, the undersigned recommends the above occurrence be expunged from Claimant’s CRD.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1932679 from registration records maintained by the CRD for Claimant Chi-Hong Chu (CRD Number 4615119) with the understanding that, pursuant to Notice to Members 04-16, Claimant Chi-Hong Chu 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; and the claim, allegation, or information is false.

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

The customers became clients of Claimant in 2015. They were interested in growth with a moderate risk profile as a way to supplement their retirement income. After extensive conversations with the customers, they purchased a variable annuity from Jackson

National (Perspective II) with income protection and a guaranteed minimum withdrawal benefit. In 2016, the customers complained to the firm that the annuity was unsuitable. The firm denied their complaint, and they took no further action. This occurrence should be expunged on the ground that is clearly erroneous and/or false. The annuity was suitable for their needs, its features and risks were described in extensive detail, and the customers signed all requisite acknowledgements and disclosures.

Chu also testified to the adverse impact this occurrence have had on his business.

The interests of consumer protection and awareness being in no way negatively implicated, the undersigned recommends the above occurrence be expunged from Claimant's CRD.

3. The Arbitrator recommends the expungement of all references to Occurrence Number 1978631 from registration records maintained by the CRD for Claimant Chi-Hong Chu (CRD Number 4615119) with the understanding that, pursuant to Notice to Members 04-16, Claimant Chi-Hong Chu 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; and the claim, allegation, or information is false.

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

The customers became clients of Claimant in 2017. As investors seeking growth and income with a moderate risk profile, they were interested in replacing an existing annuity. Claimant recommended, and they purchased, an AIG Polaris annuity with a 6.5% yield. Less than a year later, the customers complained that the annuity's features had not been properly described. Their claim was denied, and they took no further action. This occurrence should be expunged on the ground that is clearly erroneous and/or false. They had prior experience with this type of product, the annuity's features and risks were described in extensive detail, and they signed all requisite acknowledgements and disclosures.

Chu also testified to the adverse impact this occurrence have had on his business.

The interests of consumer protection and awareness being in no way negatively implicated, the undersigned recommends the above occurrence be expunged from Claimant's CRD.

4. 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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent American Portfolios Financial Services, Inc. is assessed the following:

Member Surcharge =\$ 150.00

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 20, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session =\$ 50.00
Hearing: May 24, 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

Robert E. Anderson

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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

Robert E. Anderson

Robert E. Anderson
Sole Public Arbitrator

06/02/2021

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.

June 03, 2021

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