

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
William Frederick Fox

Case Number: 20-03184

vs.

Respondent
First Allied Securities, Inc.

Hearing Site: Houston, Texas

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 William Frederick Fox (“Claimant”): Robert J. Moses, Esq., RJM Counsel PLLC, New York, New York.

For Respondent First Allied Securities, Inc. (“Respondent”): Jeremy Wooden, Esq., Cetera Financial Group, El Segundo, California.

CASE INFORMATION

Statement of Claim filed on or about: September 11, 2020.
Claimant signed the Submission Agreement: September 11, 2020.

Statement of Answer filed on or about: November 3, 2020.
Respondent signed the Submission Agreement: October 8, 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 did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1870631 and 1627533 and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent requested that Claimant's request for \$1.00 in compensatory damages be denied and that forum costs and fees be assessed against Claimant.

At the hearing, Claimant withdrew the request for \$1.00 in compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

On February 24, 2021, Claimant advised that the customer in Occurrence Number 1870631 ("Customer B") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). Claimant also filed a copy of the UPS tracking information available online for the Notice. On March 24, 2021, Claimant filed a copy of an obituary for the customer in Occurrence Number 1627533 ("Customer A").

The Arbitrator conducted a recorded, telephonic hearing on May 28, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing.

Customer B participated in the expungement hearing and did not oppose the expungement request.

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 1870631, 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 1627533 was not settled and, therefore, there was no settlement documentation to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Statement of Claim, Claimant's BrokerCheck® Report, Statement of Answer, Customer A's obituary, Claimant's and Customer B's testimony, and the email dated April 10, 2021 submitted by Claimant.

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:

The Arbitrator recommends the expungement of all references to Occurrence Numbers 1627533 and 1870631 from registration records maintained by the CRD for Claimant William Frederick Fox (CRD Number 1522234) with the understanding that, pursuant to Notice to Members 04-16, Claimant William Frederick Fox 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 factually impossible or clearly erroneous.

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

Occurrence Number 1870631

The Arbitrator is satisfied that Claimant explained the investments to Customer B and that disclosures regarding the risks were provided. The investments were suitable in light of Customer B’s investment objectives.

Occurrence Number 1627533

The Arbitrator is satisfied that Claimant explained the life insurance investment to Customer A at the time it was purchased and that Customer A understood the investment. Claimant met regularly with Customer A regarding the investment. The investment was appropriate based on Customer A’s investment objectives.

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
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**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
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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:

Two (2) pre-hearing sessions @ \$50.00/session		= \$	100.00
Pre-Hearing Conferences: January 7, 2021	1 session		
April 1, 2021	1 session		
One (1) hearing session on expungement request @ \$50.00/session		= \$	50.00
Hearing: May 28, 2021	1 session		
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Total Hearing Session Fees		= \$	150.00

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

Sherry R. Wetsch

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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

Sherry R. Wetsch

Sherry R. Wetsch
Sole Public Arbitrator

06/03/2021

Signature Date

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June 03, 2021

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