

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Robert Thomas Crothers

Case Number: 20-03244

vs.

Respondent
American Portfolios Financial Services, Inc.

Hearing Site: New York, 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 Robert Thomas Crothers: Robert Moses, Esq., RJM Counsel PLLC, New York, New York.

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

CASE INFORMATION

Statement of Claim filed on or about: September 12, 2020.

Robert Thomas Crothers signed the Submission Agreement: September 12, 2020.

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

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 380884 and 1435477; 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.

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.

The Claim Notification letter notified Respondent that FINRA rules require parties to use the online DR Portal on a mandatory basis (except pro se investors) and that failure to register for the DR Portal will prevent the submission of pleadings, selection of arbitrators, and receipt of notification relating to case information and deadlines. Respondent failed to register for the DR Portal.

The Arbitrator determined that Respondent is, therefore, bound by the Arbitrator's ruling and determination.

On May 13, 2021, Claimant advised that the customers in Occurrence Numbers 380884 and 1435477 were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on May 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 and did not oppose the request for expungement.

The customers in Occurrence Numbers 380884 and 1435477 did not participate in the expungement hearing but the customers in Occurrence Number 1435477 wrote an email supporting Claimant's expungement request. 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 Number 1435477, 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 although Claimant contributed to the settlement amount, it was a business decision made by the member firm and Claimant was only responsible for the insurance deductible. The Arbitrator determined that expungement is therefore still appropriate.

The Arbitrator noted that the dispute related to Occurrence Number 380884 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report, the pleadings, Claimant's testimony, Respondent's email, the customers' email supporting expungement, 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 Numbers 380884 and 1435477 from registration records maintained by the CRD for Claimant Robert Thomas Crothers (CRD Number 1648677) with the understanding that, pursuant to Notice to Members 04-16, Claimant Robert Thomas Crothers 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 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:

The Arbitrator finds the Claimant's testimony credible that in both instances the customers, who were sophisticated and knowledgeable investors, specifically directed that the trades be executed and that there was no inappropriate concentration of any sector in the stock portfolios. Additionally, the fact that disciplinary proceedings were not commenced against the Claimant by the member firm is persuasive evidence of no broker wrongdoing. Furthermore, for this evidentiary hearing, the customers in Occurrence Number 1435477 submitted documentation supporting expungement. Lastly, Respondent's representative sent confirmation via email and supported the expungement request. Accordingly, the Arbitrator has determined that the criteria for expungement pursuant to FINRA rules has been satisfied.

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 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 15, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: May 18, 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

Lise Gabrielle Hunter

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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

Lise Gabrielle Hunter

Lise Gabrielle Hunter
Sole Public Arbitrator

05/24/2021

Signature Date

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May 25, 2021

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