

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Mario Marcio Saravia Garcia

Case Number: 20-03253

vs.

Respondent

Wallstreet*E Financial Services, Inc.

Hearing Site: Boca Raton, Florida

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 Mario Marcio Saravia Garcia: Kurt T. Kalberer, II, Esq., Kalberer LLP, New York, New York.

Respondent Wallstreet*E Financial Services, Inc. did not appear.

CASE INFORMATION

Statement of Claim filed on or about: September 13, 2020.

Mario Marcio Saravia Garcia signed the Submission Agreement: September 13, 2020.

Respondent Wallstreet*E Financial Services, Inc. did not file a Statement of Answer and did not 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 Number 1439669 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.

On March 9, 2021, Claimant’s counsel filed an Affidavit advising that he had been unable to locate the customer in Occurrence Number 1439669 (“Customer”), and therefore, was unable to serve the Customer with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded hearing by videoconference on March 9, 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 Customer also did not participate in the expungement hearing. During the expungement hearing, the Arbitrator questioned Claimant’s counsel under oath regarding his efforts to locate and serve the Customer. The Arbitrator noted that both Claimant and his counsel testified to efforts to locate the Customer. Additionally, at the Arbitrator’s direction, counsel for Claimant sent letters to the last address shown for the Customer’s company on the Florida Division of Corporations website, Sunbiz.org. Accordingly, the Arbitrator found that reasonable efforts to contact the Customer have been made.

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 occurrence in the CRD.

On April 14, 2021, Claimant filed a notice advising that he was not a party to the settlement agreement and that, after reasonable efforts, he was unable to locate the Customer, and the Respondent which had been unregistered with FINRA since 2010, to get a copy of the settlement agreement for Occurrence Number 1439669. Therefore, there was no settlement document to review.

The Arbitrator determined that reasonable efforts had been attempted to locate the Customer and Respondent to get a copy of the settlement agreement. The Arbitrator considered the relevant evidence in determining there was no reason to believe that the amount of payment or other relevant terms and conditions of the settlement, including whether the settlement was conditioned on any party to the settlement not opposing the expungement request, and any contribution by Claimant to the settlement amount (there was none) would militate against expungement.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant’s testimony; Claimant’s subject CRD entry itself; and an article from CFO.com describing the relevant wrongdoing by a third party.

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 1439669 from registration records maintained by the CRD for Claimant Mario Marcio Saravia Garcia (CRD Number 4712501) with the understanding that, pursuant to Notice to Members 04-16, Claimant 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.

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The claim, allegation, or information is false.

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

The unrebutted and credible testimony established that Claimant was not involved in any way with the alleged misconduct. He never made any recommendation to the customer. Claimant had no role in the transaction that was the subject of the complaint. He was not even at the firm that employed the individual who was responsible. Claimant's only connection to the customer was that in a very early part of Claimant's career, Claimant executed trades for the customer in a self-directed account. Claimant's testimony is supported even by the CRD entry itself, which says that Claimant "was not involved or engaged in selling [the subject] products."

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

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 19, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: March 9, 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

Will Murphy

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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

Will Murphy

Will Murphy
Sole Public Arbitrator

04/20/2021

Signature Date

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April 20, 2021

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