

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Christopher Lee

Case Number: 20-03418

vs.

Respondent  
Fidelity Brokerage Services LLC

Hearing Site: Dallas, Texas

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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**

Claimant Christopher Lee (“Claimant”) appeared pro se.

For Respondent Fidelity Brokerage Services LLC (“Respondent”): David I. Hantman, Esq., Bressler, Amery & Ross, P.C., Florham Park, New Jersey.

**CASE INFORMATION**

Statement of Claim filed on or about: January 26, 2021.  
Claimant signed the Submission Agreement: October 1, 2020.

Statement of Answer filed on or about: March 19, 2021.  
Respondent signed the Submission Agreement: April 20, 2021.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted a claim seeking expungement of the Form U5 filed by Respondent, as part of registration records maintained by the Central Registration Depository (“CRD”) and asserted that he should not have been the only employee terminated and that any failures to check customers’ signatures on wire requests were unintentional and an administrative oversight influenced by senior team members.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement/amendment of the Form U5 filed by Respondent.

In the Statement of Answer, Respondent requested that the Panel issue an award dismissing Claimant's claim and denying his request for expungement of the language in his Form U5; assessing all forum fees and costs against Claimant; and such other, further and different relief as the Panel may deem appropriate.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On January 12, 2022, pursuant to Rule 13511 and Rule 13212 of the Code of Arbitration Procedure ("Code"), Respondent filed an Emergency Motion for Sanctions and Dismissal with Prejudice ("Motion for Sanctions and Dismissal") on the grounds that Claimant failed to produce documents and information as ordered in the Panel's December 29, 2021 Order granting Respondent's Motion to Compel. On January 13, 2022, the Panel ordered Claimant to respond to the Motion for Sanctions and Dismissal by January 19, 2022. In the same Order, the Panel stated that, pursuant to Rule 13511 of the Code, a party's failure to cooperate in the exchange of documents and information as required under the Code may result in sanctions. Claimant did not file a response to the Motion for Sanctions and Dismissal.

In an Order dated January 25, 2022, the Panel took the Motion for Sanctions and Dismissal under advisement and stated that the Panel would consider the Motion for Sanctions and Dismissal at the time of and/or as part of the evidentiary hearing. In the same Order, the Panel reminded Claimant that, pursuant to Rule 13511 of the Code, a party's failure to cooperate in the exchange of documents and information as required under the Code, may result in sanctions, and the Panel may issue sanctions against any party in accordance with Rule 13212 of the Code for failing to comply with any provision in the Code, or any order of the Panel or single arbitrator authorized to act on behalf of the Panel. In the same Order, the Panel reminded Claimant that such sanctions may include monetary penalties payable to one or more parties; preclusion from presenting evidence; making an adverse inference against a party; assessing postponement and/or forum fees; and assessing attorneys' fees, costs, and expenses; and may also include dismissal of a claim, defense, or proceeding with prejudice for intentional and material failure to comply with an order of the Panel when prior warnings or lesser sanctions have proven ineffective.

In its Order dated January 25, 2022, the Panel extended the deadline for the parties to complete their pre-hearing exchange of documents pursuant to Rule 13514 of the Code. Claimant did not file or serve any of the pre-hearing exchange described in Rule 13514.

At the commencement of the hearing, the Panel heard oral arguments on the Motion for Sanctions and Dismissal. After consideration of the Motion for Sanctions and Dismissal, the arguments of the parties, and the case file (including the prior orders, lesser sanctions, and admonitions), the Panel unanimously denied the request for dismissal without prejudice, and, pursuant to Rules 13511, 13212, and 13514 of the Code, ruled that, as a sanction, Claimant

would be prohibited from calling any witnesses, other than himself, to testify and prohibited from introducing any documents into evidence.

At the conclusion of Claimant’s case-in-chief, Respondent made an oral Motion to Dismiss the Statement of Claim pursuant to Rule 13504(b) of the Code. The Panel heard oral arguments on the Motion to Dismiss. After consideration of the Motion to Dismiss, the evidence admitted during the presentation of Claimant’s case, viewed in the light most favorable to Claimant, the arguments of the parties, and the case file, the Panel unanimously granted the Motion to Dismiss on the grounds that Claimant was unable to establish a prima facie case that the statement on his Form U5 is defamatory, misleading, inaccurate, or erroneous; that reasonable minds could reach only one conclusion; and that there was no legally sufficient evidentiary basis to reach a different conclusion or for the case to proceed.

The Award in this matter may be executed in counterpart copies.

**AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant’s claims are dismissed with prejudice pursuant to Rule 13504(b) of the Code.
2. 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 = \$ 1,575.00

*\*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(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 = \$ 1,900.00  
Member Process Fee = \$ 3,750.00

**Discovery-Related Motion Fees**

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision = \$ 200.00

Respondent submitted one (1) discovery-related motion

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Total Discovery-Related Motion Fees	= \$	200.00
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The Panel has assessed the total discovery-related motion fees to Claimant.

**Hearing Session Fees and Assessments**

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator(s), including a pre-hearing conference with the Arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ \$1,125.00/session	= \$	1,125.00
Pre-Hearing Conference: May 27, 2021	1 session	

One (1) hearing session @ \$1,125.00/session	= \$	1,125.00
Hearing: February 9, 2022	1 session	

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Total Hearing Session Fees	= \$	2,250.00
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The Panel has assessed the total hearing session fees to Claimant.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

**ARBITRATION PANEL**

Douglas Wade Carvell	-	Public Arbitrator, Presiding Chairperson
Andrea U. Calve	-	Public Arbitrator
David B. Dyer	-	Non-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.

**Concurring Arbitrators' Signatures**

***Douglas Wade Carvell***

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Douglas Wade Carvell  
Public Arbitrator, Presiding Chairperson

***02/17/2022***

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Signature Date

***Andrea U. Calve***

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Andrea U. Calve  
Public Arbitrator

***02/16/2022***

\_\_\_\_\_  
Signature Date

***David B. Dyer***

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David B. Dyer  
Non-Public Arbitrator

***02/16/2022***

\_\_\_\_\_  
Signature Date

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February 17, 2022

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