

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Roger James Engemoen, Jr.

Case Number: 20-03443

vs.

Respondent

SAMCO Capital Markets, 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

REPRESENTATION OF PARTIES

For Claimant Roger James Engemoen, Jr. (“Claimant”): Jessica J. Mannon, Esq. and M. Scott Barnard, Esq., Akin Gump Strauss Hauer & Feld LLP, Dallas, Texas.

For Respondent SAMCO Capital Markets, Inc. (“Respondent”): Joel B. Bailey, Esq., Hedrick Kring, PLLC, Dallas, Texas.

CASE INFORMATION

Statement of Claim filed on or about: October 6, 2020.

Claimant signed the Submission Agreement: October 5, 2020.

Statement of Answer filed on or about: November 12, 2020.

Respondent signed the Submission Agreement: November 13, 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 supported Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1604776.

In the Statement of Answer, Respondent requested that Claimant’s expungement request be

granted.

OTHER ISSUES CONSIDERED AND DECIDED

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

On December 31, 2020, Claimant filed notice of the parties' stipulation to a single arbitrator in this matter.

On April 19, 2021, Claimant advised that counsel for the customer in Occurrence Number 1604776 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). Claimant also filed an Affidavit confirming that the Customer's counsel was served with the Notice. On May 3, 2021, Claimant filed a copy of the USPS tracking information available online for the Notice (together with the Notice and Affidavit, "Proof of Service").

The Arbitrator conducted a recorded, telephonic hearing on May 3, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, supported the request for expungement.

The Customer did not participate in the expungement hearing. The Arbitrator found that the Customer 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 occurrence in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 1604776, 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 contributed to the settlement amount. The Arbitrator also noted that Claimant's contribution was paid by the issuer of a directors and officers ("D&O") liability insurance policy.

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

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 Number 1604776 from registration records maintained by the CRD for Claimant Roger James

Engemoen, Jr. (CRD Number 1506062) with the understanding that, pursuant to Notice to Members 04-16, Claimant Roger James Engemoen, Jr. 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 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 evidence demonstrated that Claimant was the Chairman of the Board of Directors for a company that was sued in 2011 in a class action securities case filed in the United States District Court for the Northern District of Texas. Claimant had no day-to-day duties in running the company, and he did not oversee or participate in any of the activities on which the securities case was based, including the determination of the value of underlying collateral. That determination was performed by accounting staff and other financial professionals. Claimant was not directly responsible for supervising accounting staff or accounting audits, and he justifiably relied on staff to furnish relevant and accurate information. Claimant was named as a defendant in the securities case in an amended pleading filed seven months after the lawsuit was initiated. The amended pleading did not attribute any alleged misrepresentations or omissions to Claimant or specify wrongdoing on his part. It appears that Claimant was added as a defendant due to the existence of a D&O liability insurance policy that could provide settlement funds, since it looked as if the company was headed for bankruptcy (which did occur). The insurer made the decision to settle the securities case with no admission of liability.

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

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 @ \$450.00/session = \$ 450.00
Pre-Hearing Conference: February 9, 2021 1 session

One (1) hearing session on expungement request @ \$450.00/session = \$ 450.00
Hearing: May 3, 2021 1 session

Total Hearing Session Fees = \$ 900.00

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

Lynne M. Gomez

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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

Lynne M. Gomez

Lynne M. Gomez
Sole Public Arbitrator

05/06/2021

Signature Date

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May 06, 2021

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