

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Trevor Joseph Wurtzebach

Case Number: 20-03718

vs.

Respondent

National Securities Corporation

Hearing Site: Chicago, Illinois

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 Trevor Joseph Wurtzebach (“Claimant”): Douglas W. Hyman, Esq., Lewitas Hyman PC, Chicago, Illinois.

For Respondent National Securities Corporation (“Respondent”): Emily A. Hayes, Esq., National Securities Corporation, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: November 3, 2020.

Claimant signed the Submission Agreement: November 3, 2020.

Statement of Answer filed on or about: December 22, 2020.

Respondent signed the Submission Agreement: December 22, 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 took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1612737, 1718128, and 1524378 and such other and additional relief that the Panel deems just and proper.

In the Statement of Answer, Respondent requested that forum fees and costs, including member surcharges, be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

On May 3, 2021, Claimant advised that the customers in Occurrence Numbers 1612737, 1718128, and 1524378 (“Customers”) were served with the Statement of Claim and notice of the date and time of the expungement hearing (“Notices”). Claimant also filed a copy of the FedEx proof-of-delivery for the Notices.

The Panel conducted a recorded, telephonic hearing on June 22, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent participated in the expungement hearing and supported the request for expungement.

The Customers did not participate in the expungement hearing. The Panel found that the Customers had notice of the expungement request and hearing.

The Panel reviewed Claimant’s BrokerCheck® Report. The Panel noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrences in the CRD.

The Panel also reviewed the settlement documentation related to Occurrence Numbers 1612737 and 1718128, considered the amount of payment made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Panel noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to the settlement amounts.

The Panel noted that the dispute related to Occurrence Number 1524378 was not settled and, therefore, there was no settlement documentation to review.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimant’s testimony, Claimant’s BrokerCheck® Report, underlying settlement agreements, Notices to the Customers, and Claimant’s Exhibit 4.

AWARD

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

1. The Panel recommends the expungement of all references to Occurrence Numbers 1612737, 1718128, and 1524378 from registration records maintained by the CRD for Claimant Trevor Joseph Wurtzebach (CRD Number 5134519) with the understanding that, pursuant to Notice to Members 04-16, Claimant Trevor Joseph Wurtzebach 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 Panel 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; and

The claim, allegation, or information is false.

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

Claimant offered credible, sworn testimony, supported by exhibits, that he worked as part of a three-person team with the branch manager and a senior financial advisor. Claimant never offered investment recommendations or advised clients relative to portfolio management, asset allocation, or suitability. Claimant had no involvement in any of the conduct or allegations asserted in the customers’ complaints and his role was limited to an administrative support capacity and interactions during initial conversations, meetings, and on-boarding. Further, the customer in Occurrence Number 1524378 wrote a letter, dated August 26, 2010, exculpating Claimant.

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

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 Panel, including a pre-hearing conference with the Panel, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session @ \$1,125.00/session		= \$	1,125.00
Pre-Hearing Conference: February 22, 2021	1 session		
One (1) hearing session on expungement request @ \$1,125.00/session		= \$	1,125.00
Hearings: June 22, 2021	1 session		
<hr/>			
Total Hearing Session Fees		= \$	2,250.00

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

Susanne J. Hollander	-	Public Arbitrator, Presiding Chairperson
Theodore W. Wroblewski	-	Public Arbitrator
Scott Miller	-	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

Susanne J. Hollander

Susanne J. Hollander
Public Arbitrator, Presiding Chairperson

06/24/2021

Signature Date

Theodore W. Wroblewski

Theodore W. Wroblewski
Public Arbitrator

06/23/2021

Signature Date

Scott Miller

Scott Miller
Non-Public Arbitrator

06/24/2021

Signature Date

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.

June 24, 2021

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