

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Todd Douglas Calamita

Case Number: 20-03989

vs.

Respondent
RBC Capital Markets, LLC

Hearing Site: Charlotte, North Carolina

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 Todd Douglas Calamita: Erica Binnix, J.D. and Dochter Kennedy, MBA, J.D., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent RBC Capital Markets, LLC: Tiana M. Towns, Esq. and James Langdon, Esq., Dorsey & Whitney, LLP, Minneapolis, Minnesota.

CASE INFORMATION

Statement of Claim filed on or about: December 7, 2020.

Todd Douglas Calamita signed the Submission Agreement: December 7, 2020.

Statement of Answer filed by Respondent on or about: January 27, 2021.

RBC Capital Markets LLC signed the Submission Agreement: February 2, 2021.

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 did not object to Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1489334 pursuant to FINRA Rules 2080(b)(1)(A) and (C); deletion of all Disclosure Reporting Pages accompanying the underlying claim; compensatory damages in the amount of \$1.00 from

Respondent; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent contested Claimant's request for an award of damages.

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.

On December 3, 2020, an Affidavit was signed by one of the two customers in Occurrence Number 1489334 ("Customers") stating that he supports Claimant's request for expungement.

On April 22, 2021, Claimant advised that the Customers were served with the Statement of Claim and notice of the date and time of the expungement hearing. On April 26, 2021, Claimant filed an Affidavit confirming that the Customers were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic recorded hearing on June 2, 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, did not object to the request for expungement.

The Customers did not participate in the expungement hearing. 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 occurrence in the CRD.

The Arbitrator did not review any settlement documentation for Occurrence Number 1489334. Respondent, upon investigation of the Customers' complaint, found that fault was with the Auction Rate Security Market issuing the seven-day money market Action Rate Securities ("ARSs"), and found no fault with Claimant. Therefore, Respondent, pursuant to a settlement with several regulatory agencies, repurchased the at-issue ARSs at par value from the Customers. The Claimant did not participate in the repurchase or contribute any funds.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim, Respondent's Statement of Answer, Claimant's BrokerCheck Report, Claimant's Expungement Hearing Exhibits, emails with the Customers from 2006 through 2008, Auction Rate Preferred Update – April 2008, Customer Account Statement – December 2008, Customer's Affidavit – December 3, 2020, and Claimant's testimony.

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 1489334 from registration records maintained by the CRD for Claimant Todd Douglas Calamita (CRD Number 3204341) with the understanding that, pursuant to Notice to Members 04-16, Claimant Todd Douglas Calamita 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 claim, allegation, or information is false.

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

The Customers made an oral complaint to Respondent alleging unknown damages regarding the Customers' inability to sell their ARSs resulting from the ARS auction failures beginning on February 7, 2008. The ARSs became illiquid at that time. The complaint alleged: "Customers claimed that they were told Auction Rate Securities were liquid investments." Respondent investigated the complaint, and pursuant to a settlement with several regulatory agencies, agreed to repurchase the at-issue ARSs at par value from the Customers. Respondent found that the Customers' claims were without merit, and the settlement was independent of the Customers' claims. Claimant did not participate in the settlement and did not contribute to the repurchase of the Customers' ARSs. The Respondent stated in its Statement of Answer and at the hearing, that it had no objection to Claimant's claim for expungement.

The Arbitrator finds that the great preponderance of evidence presented at the hearing, along with Claimant's testimony, that Claimant performed his due diligence in constantly communicating with the Customers regarding their investments, understanding their investment goals of conservative investment, and maintaining principle while increasing the return on investments. The ARSs at the time of the investment were suitable for the Customers and were considered by the Industry, Respondent, and Claimant to be an approved, safe, and highly liquid product. Claimant testified that he explained the ARSs to the Customers, including that if the assets became illiquid then the security would convert to a term investment paying the predetermined coupon rate. The Customers signed documents provided by Claimant explaining the investment. The Customers invested a nominal amount of their assets in ARSs. The ARS Market was stable from 1985 until the collapse of 2008. One of the two Customers signed an Affidavit on December 3, 2020 stating: "I support Mr. Calamita's request for expungement of this dispute." The Customers are still clients of Claimant. The Customers lost none of their investment funds in the ARSs.

The Arbitrator finds that the Customers' allegations are not supported by the evidence and are therefore false. For these reasons, expungement of Claimant's record is appropriate. Therefore, the Arbitrator recommends the expungement of Occurrence Number 1489334 because FINRA Rule 2080(b)(1)(C) has been satisfied.

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:

Expungement Filing Fee	= \$	1,575.00
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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 event 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 with a single Arbitrator @ \$1,125.00/session	= \$	1,125.00
Pre-Hearing Conference: April 12, 2021	1 session	

One (1) hearing session on expungement request @ \$1,125.00/session	= \$	1,125.00
Hearing: June 2, 2021	1 session	

Total Hearing Session Fees	= \$	2,250.00
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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

Michael J. Ahlstrom

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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

Michael J. Ahlstrom

Michael J. Ahlstrom
Sole Public Arbitrator

06/10/2021

Signature Date

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June 10, 2021

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