

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Norbert H. Filian

Case Number: 21-00022

vs.

Respondent
Equitable Advisors, LLC

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

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Norbert H. Filian (“Claimant”): Christopher D. Seps, Esq., Ulmer & Berne LLP, Chicago, Illinois.

For Respondent Equitable Advisors, LLC (“Respondent”): Kevin W. Brooks, Esq., Equitable Financial Life Insurance Company, Charlotte, North Carolina.

CASE INFORMATION

Statement of Claim filed on or about: January 7, 2021.
Claimant signed the Submission Agreement: January 6, 2021.

Statement of Answer filed on or about: February 11, 2021.
Respondent signed the Submission Agreement: January 20, 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 took no position on Claimant’s expungement request but denied any wrongdoing.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 2050101.

In the Statement of Answer, Respondent requested dismissal from this matter with prejudice; that, to the extent it is required to participate in the proceedings, it be awarded costs; assessment of all costs and fees against Claimant; and such other and further relief as the Panel may deem just and appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

On April 22, 2021, Claimant advised that the customer in Occurrence Number 2050101 (“Customer”) was served with the Statement of Claim and notice of the date and time of the expungement hearing (“Notice”). The same day, Claimant filed a copy of the FedEx proof of delivery for the Notice.

On May 19, 2021, the Customer, through counsel, submitted an Opposition to Claimant’s Request for Expungement. On May 20, 2021, Respondent filed a Response to the Opposition to Claimant’s Request for Expungement.

The Panel conducted a recorded hearing by videoconference on May 20, 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, took no position with respect to Claimant’s the request for expungement.

Neither the Customer nor his counsel attended the expungement hearing. The Panel noted that the Customer, through counsel, was an active participant in this matter, having filed a motion, in addition to the Opposition, and participated in a prehearing conference. The Panel found that the Customer 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 occurrence in the CRD.

The Panel also reviewed the settlement documentation related to Occurrence Number 2050101, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel 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.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimant’s testimony and Claimant’s Exhibits 10, 16, 21, 26, 31, 45, 58, 88, and 89.

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 Number 2050101 from registration records maintained by the CRD for Claimant Norbert Helmut Filian (CRD Number 2998784) with the understanding that, pursuant to Notice to Members 04-16, Claimant Norbert Helmut Filian 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 finding of fact:

The claim, allegation, or information is false.

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

Claimant’s investment recommendations were suitable, considering the Customer’s overall portfolio and risk tolerance. Claimant had numerous meetings with the Customer, and the Customer was made aware of the investments’ risk factors, liquidity issues, and compensation.

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
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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	= \$	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 Arbitrator, 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 17, 2021	1 session	
Two (2) hearing sessions on expungement request @ \$1,125.00/session	= \$	2,250.00
Hearing: May 20, 2021	2 sessions	
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Total Hearing Session Fees	= \$	3,375.00

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.

ARBITRATION PANEL

Leon Fox	-	Public Arbitrator, Presiding Chairperson
Michael R. Sherwin	-	Public Arbitrator
Stephen M. Parlier	-	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

Leon Fox

Leon Fox
Public Arbitrator, Presiding Chairperson

06/01/2021

Signature Date

Michael R. Sherwin

Michael R. Sherwin
Public Arbitrator

06/01/2021

Signature Date

Stephen M. Parlier

Stephen M. Parlier
Non-Public Arbitrator

06/01/2021

Signature Date

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June 01, 2021

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