

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Rony Porat

Case Number: 21-00041

vs.

Respondent
IDB Capital Corp.

Hearing Site: Boca Raton, Florida

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 Rony Porat: Erica Binnix, Esq. and Dochter Kennedy, JD, MBA, AdvisorLaw, LLC, Westminster, Colorado.

For Respondent IDB Capital Corp.: Melissa R. Chernofsky, Esq., IDB Capital Corp., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: January 8, 2021.
Rony Porat signed the Submission Agreement: January 8, 2021.

Statement of Answer filed by Respondent on or about: March 16, 2021.
IDB Capital Corp. signed the Submission Agreement: March 16, 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.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1830815; 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 opposed the request for an award of compensatory 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 March 15, 2021, the parties filed with FINRA Dispute Resolution Services a Joint Stipulation to have this matter heard by one arbitrator, instead of the three-arbitrator panel prescribed under the Code of Arbitration Procedure (the "Code"). Accordingly, only one arbitrator was appointed to decide this matter.

On September 20, 2021, Claimant filed an Affidavit confirming that the customers in Occurrence Number 1830815 ("Customers A and B") were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on September 30, 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 take a position on 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 noted that the dispute related to Occurrence Number 1830815 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report; proofs of service of expungement request on the Customers; the Customers' Risk Profile questionnaire and Account Application; Respondent's letter to the Customers dated September 1, 2015, denying the claim in full; the Customers' October 19, 2015, email to Respondent; and, the credible testimony of Claimant.

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 1830815 from registration records maintained by the CRD for Claimant Rony Porat (CRD Number 5840152) with the understanding that, pursuant to Notice to Members 04-16, Claimant 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, the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The claim, allegation, or information is false.

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

Based on the exhibits admitted in evidence and credible testimony of the Claimant, the Arbitrator grants expungement under FINRA Rules 2080(b)(1)(A) and 2080(b)(1)(C). Customer A was a high-net-worth Brazilian citizen that had an interest in investing in Brazilian companies that he was familiar with. Claimant met with Customer A when he visited New York City when Customer A's normal account executive was not available. Customer A wanted higher yield and was provided a list of investment grade bonds to choose from and Customer A chose a particular product. Claimant advised Customer A not to invest the full amount Customer A originally requested and to diversify by placing a portion of the funds in mutual funds. The product was suitable when offered to Customer A. The loss was the result of unforeseen market and/or political forces.

Further, no formal claim was ever made by Customer A against Claimant or his firm. Claimant's firm rejected the written complaint made by the Customers. There was no settlement to review as no compensation was ever paid to the Customers.

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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent IDB Capital Corp. is assessed the following:

Member Surcharge	= \$ 1,900.00
Member Process Fee	= \$ 3,750.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

July 7, 2021, postponement requested by Claimant	= \$ 1,125.00
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Total Postponement Fee	= \$ 1,125.00
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The Arbitrator has assessed \$562.50 of the postponement fee to Claimant.

The Arbitrator has assessed \$562.50 of the postponement fee to Respondent.

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: May 4, 2021	1 session

One (1) hearing session on expungement request @ \$1,125.00/session	= \$ 1,125.00
Hearing: September 30, 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

Steven Gerard Goerke

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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

Steven Gerard Goerke

Steven Gerard Goerke
Sole Public Arbitrator

10/06/2021

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.

October 07, 2021

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