

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
James A. Bales

Case Number: 21-00082

vs.

Respondent
Centaurus Financial, Inc.

Hearing Site: Norfolk, Virginia

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 James A. Bales: James Cosby, Esq., O'Hagan Meyer, PLLC, Richmond, Virginia.

For Respondent Centaurus Financial, Inc. ("Centaurus"): Bryan Gless, Esq., Centaurus Financial, Inc., Anaheim, California.

CASE INFORMATION

Statement of Claim filed on or about: January 13, 2021.

James A. Bales signed the Submission Agreement: November 9, 2020.

Statement of Answer filed by Respondent on or about: March 9, 2021.

Centaurus Financial, Inc. signed the Submission Agreement: April 22, 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 stated it does not oppose Claimant's expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1589576.

In the Statement of Answer, Respondent requested that all forum fees 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 24, 2021, Claimant advised that the customers in Occurrence Number 1589576 (“Customers”) were served by Certified Mail with the Statement of Claim and notice of the date and time of the expungement hearing.

The Panel conducted a recorded, telephonic hearing on December 7, 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 oppose 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 occurrence in the CRD.

The Panel also reviewed the settlement documentation related to Occurrence Number 1589576, 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 did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimant’s Statement of Claim and Respondent’s Statement of Answer, including the exhibits provided within the Statement of Answer. For example, the order forms, transaction documents and confirmations which were initialed and signed by the Customers. They show the purchases were unsolicited.

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:

The Panel recommends the expungement of all references to Occurrence Number 1589576 from registration records maintained by the CRD for Claimant James A. Bales (CRD Number 2542261) with the understanding that, pursuant to Notice to Members 04-16, Claimant James A. Bales 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:

Based on the documentary evidence submitted, the Panel determined that the underlying claim is false. The underlying FINRA Arbitration (Case Number 11-04093) was filed against Respondent and did not name Claimant as a party nor did it seek any recovery or relief from him. Claimant did not participate in the settlement of the case. The documents presented as exhibits in the answer to the claim showed Desert Capital as an unsolicited purchase. On page two (2) of the Statement of Answer, Respondent states, "it was the [Customers] (not Centaurus or Mr. Bales) who chose to invest approximately \$200,000.00 in the Desert Capital REIT based on their experiences with the two earlier investments and their desire for greater monthly income." The order forms, transaction documents and confirmation documents confirm this with the initials and signatures of the Customers. These objective written documents are proof that the underlying claim is false.

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

**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, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the full Panel @ \$1,125.00/session = \$ 1,125.00
Pre-Hearing Conference: May 19, 2021 1 session

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

ARBITRATION PANEL

Lita S Menkin	-	Public Arbitrator, Presiding Chairperson
Gordon M. Wase	-	Public Arbitrator
Edward R. Hipp, III	-	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

Lita S Menkin

Lita S Menkin
Public Arbitrator, Presiding Chairperson

12/15/2021

Signature Date

Gordon M. Wase

Gordon M. Wase
Public Arbitrator

12/16/2021

Signature Date

Edward R. Hipp, III

Edward R. Hipp, III
Non-Public Arbitrator

12/16/2021

Signature Date

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December 16, 2021

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