

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Philip Hamilton

Case Number: 21-00183

vs.

Respondent
Chesha Baker Traylor

Hearing Site: Dallas, Texas

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. Customer

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Philip Hamilton (“Claimant”): Walter F. Musgrove, III, Esq., Musgrove Law Firm, P.C., Dallas, Texas.

For Respondent Chesha Baker Traylor (“Respondent”): Scott A. Ritcheson, Esq., Ritcheson, Lauffer & Vincent, P.C, Tyler, Texas.

CASE INFORMATION

Statement of Claim filed on or about: January 25, 2021.

Claimant signed the Submission Agreement: January 25, 2021.

Respondent did not file a Statement of Answer.

Respondent signed the Submission Agreement: January 29, 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”).

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1948239 and compensatory damages in the amount of \$1.00.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Panel conducted a recorded hearing by videoconference on November 15, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Neither Respondent nor Respondent's counsel participated in the expungement hearing. 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 noted that the dispute related to Occurrence Number 1948239 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 and Claimant's Exhibits.

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. Claimant's claim for \$1.00 in compensatory damages is denied.
2. The Panel recommends the expungement of all references to Occurrence Number 1948239 from registration records maintained by the CRD for Claimant Philip Hearl Hamilton (CRD Number 2585773) with the understanding that, pursuant to Notice to Members 04-16, Claimant Philip Hearl Hamilton 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 factually impossible or clearly erroneous.

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

After consideration of the evidence presented at the expungement hearing that took place on November 15, 2021, as well as the supplemental evidence submitted on November 23, 2021, and after careful deliberation, the Panel has determined that the Claimant has met his burden of proving that the claims made by

Respondent are clearly erroneous and that the allegations made by Respondent, even though they may have been made in good faith, are false.

Respondent, in her complaint, asserted that Claimant was churning the securities account of her father, the customer, during 2017. The evidence presented clearly establishes that Claimant was involved in only one trade during 2017 after consulting with the account holder, the customer. Therefore, the claim of churning is clearly erroneous.

The remaining claim of Respondent that Claimant executed an unauthorized trade is based upon one trade that occurred in August of 2017. On May 24, 2017, the customer signed a broad Statutory Durable Power of Attorney naming Respondent as his agent (attorney-in-fact) to act on his behalf, including “stock and bond transactions” as well as “banking and other financial institution transactions.” Respondent contended that, because of the Power of Attorney, Claimant was not authorized to make the August 2017 trade in question. However, upon examination of the Durable Power of Attorney, it is apparent that the Power of Attorney does *not* provide Respondent with the exclusive right to act on behalf of the customer. Aside from the Power of Attorney, Respondent did not assert any other basis for claiming that the transactions effectuated by Claimant were unauthorized. Therefore, the Panel has determined that Respondent's claim that Claimant made an unauthorized trade in the account of the customer is clearly erroneous.

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 Claimant's former firm, Hilltop Securities Independent Network is assessed the following:

Member Process Fee	= \$ 3,750.00
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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) hearing session on expungement request @ \$1,125.00/session	= \$ 1,125.00
Hearing: November 15, 2021 1 session	

Total Hearing Session Fees	= \$ 1,125.00
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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

Michael Wayne Johnston	-	Public Arbitrator, Presiding Chairperson
John Gary Langford	-	Public Arbitrator
Valarie Wright	-	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

Michael Wayne Johnston

Michael Wayne Johnston
Public Arbitrator, Presiding Chairperson

12/07/2021

Signature Date

John Gary Langford

John Gary Langford
Public Arbitrator

12/07/2021

Signature Date

Valarie Wright

Valarie Wright
Non-Public Arbitrator

12/07/2021

Signature Date

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December 07, 2021

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