

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Logan W. Shalmi

Case Number: 21-00335

vs.

Respondent
Oppenheimer & Co. Inc.

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 Logan W. Shalmi: Cory Zadanosky, Esq., Zadanosky & Associates, P.A., Boca Raton, Florida.

For Respondent Oppenheimer & Co. Inc. (“Oppenheimer”): William M. Cassarini, Esq., Oppenheimer & Co. Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 6, 2021.

Logan W. Shalmi signed the Submission Agreement: February 6, 2021.

Statement of Answer filed by Respondent on or about: March 30, 2021.

Oppenheimer & Co. Inc. signed the Submission Agreement: March 30, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of a customer complaint from registration records maintained by the Central Registration Depository (“CRD”).

In the Statement of Answer, Respondent did not oppose Claimant’s request for expungement, but denied the allegations made in the Statement of Claim, asserted various affirmative defenses, and denied that it is liable for any monetary damages.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 2071890;

and for such other and further relief that Claimant may be entitled to in law, equity, or that the Arbitrator deemed just and proper.

In the Statement of Answer, Respondent did not delineate a request.

OTHER ISSUES CONSIDERED AND DECIDED

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

On August 24, 2021, Claimant advised that the customers in Occurrence Number 2071890 (“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 hearing on September 28, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent did not participate 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 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 complaint related to Occurrence Number 2071890 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 notes; transaction confirmation; emails to and from Claimant and the Customers; the Trust Certification Agreement; and Respondent’s response to the Customers’ complaint.

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 2071890 from registration records maintained by the CRD for Claimant Logan W. Shalmi (CRD Number 6206579) with the understanding that, pursuant to Notice to Members 04-16, Claimant Logan W. Shalmi 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 findings of fact:

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

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The claim, allegation, or information is false.

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

On March 20, 2020, the Customers called Claimant and directed him to sell their APLE stock (“APLE”). They were nervous about APLE continuing to decline in value and directed Claimant to put the proceeds from the sale in "cash for now." Respondent Oppenheimer's investigation found that the unsolicited market order was placed following Claimant's telephone conversation with the Customers on March 20, 2020. Respondent Oppenheimer further found that Claimant's contemporaneous notes from his communications with the Customers memorialize these exact chronological events. A transaction confirmation detailing the APLE sell order was delivered to the Customers following the transaction. The Customers never contacted Claimant or management at Respondent Oppenheimer following receipt of the transaction confirmation to complain that the sale of APLE was unauthorized. The Customers' March 2020 monthly account was also delivered to the Customers, which also disclosed the March 20, 2020 sale of APLE.

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

**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 Oppenheimer 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: June 8, 2021	1 session

One (1) hearing session on expungement request @ \$1,125.00/session	= \$ 1,125.00
Hearing: September 28, 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

Robert Lawrence Ostrov

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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

Robert Lawrence Ostrov

10/01/2021

Robert Lawrence Ostrov
Sole Public Arbitrator

Signature Date

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October 01, 2021

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