

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Tim Chiung Chen

Case Number: 21-00468

vs.

Respondent  
M. S. Howells & Co.

Hearing Site: Los Angeles, California

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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 Tim Chiung Chen (“Claimant”): George C. Miller, Esq., Shustak Reynolds & Partners, P.C., San Diego, California.

For Respondent M. S. Howells & Co. (“Respondent”): Robert L. Hill, Esq., Law Offices of Robert L. Hill, APC, Carlsbad, California.

**CASE INFORMATION**

Statement of Claim filed on or about: February 19, 2021.  
Claimant signed the Submission Agreement: February 17, 2021.

Statement of Answer filed by Respondent on or about: March 19, 2021.  
Respondent signed the Submission Agreement: March 19, 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 did not oppose Claimant’s expungement request.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 2077840 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous;
2. Expungement of Occurrence Number 2077840 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false; and
3. All additional relief the Panel may deem just and proper.

In the Statement of Answer, Respondent did not set forth a specific request for relief.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On April 28, 2021, the parties agreed to proceed with a single arbitrator for this matter.

On June 3, 2021, Claimant advised that the customer in Occurrence Number 2077840 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. On June 14, 2021, Claimant submitted a copy of signed USPS certified mail receipt confirming that the Customer was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded hearing by videoconference on September 2, 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 Customer did not participate in the expungement. The Arbitrator found that the Customer 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 2077840 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: the pleadings; Claimant's exhibits; Claimant's letter to the Customer; and BrokerCheck® Report.

### **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 2077840 from registration records maintained by the CRD for Claimant Tim Chiung Chen (CRD Number 4719484) with the understanding that, pursuant to Notice to Members 04-16, Claimant Tim Chiung Chen 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 finding of fact:

The claim, allegation, or information is false.

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

The Customer was a 28-year veteran of the financial services industry and a former Certified Financial Planner. When the Customer became a client of Anchor Wealth Management, Claimant explained to her that he would be managing her accounts on a discretionary basis and as agreed in writing, the Customer clearly knew this meant Claimant would not be required to obtain her permission or pre-approval for trades he made in her account. Claimant provided the Customer with the Anchor Wealth Management’s Form ADV disclosure report, again indicating that Claimant would be managing the Customer’s assets on a discretionary basis. The Customer signed all relevant disclosures accepting the services as such.

From 2017 through May 2020, subject to his discretionary authority, Claimant actively managed the Customer’s SEP IRA account at Charles Schwab. Claimant regularly informed the Customer of the activities in her account, and she received from Charles Schwab trade confirmations reflecting every trade Claimant made on her behalf. Those trades also were reflected in the Customer’s monthly statements from Charles Schwab, and in Morningstar reports that Claimant prepared and sent to her at her request. Over the course of three years, not once did the Customer question the trades made on her behalf.

On April 22, 2020, the Customer called Claimant to discuss COVID-19 developments and the potential aftermath of the pandemic. During that call, Claimant explained to the Customer that he had performed a rebalancing of her account. The Customer did not question the rebalancing or dispute Claimant’s authority to exercise discretion in her SEP IRA on her behalf. The Customer received confirmations of these transactions on April 23, 2020 and again, did not question or dispute Claimant’s authority to place those trades.

It was not until over a month later, on May 26, 2020, after the market had begun to substantially recover, that the Customer claimed for the first time to “not know” Claimant had discretionary authority in her account. This was the first time the Customer raised any question or concern regarding the April 1 and April 22, 2020 transactions detailed above. The Claimant explained that he had managed the Customer’s accounts on a discretionary

basis throughout her affiliation with Anchor Wealth pursuant to the discretionary authority she granted him.

On June 4, 2020, purportedly to support her alleged Statement of Claim “complaint,” the Customer emailed Claimant and suggested the sales Claimant made in April 2020 were “unauthorized.” Claimant promptly disclosed the Customer’s complaint to Respondent, his broker-dealer of record. Per FINRA guidance, Respondent, in turn, filed an amended Form U4 disclosing the Customer’s complaint on Claimant’s CRD records. The Customer took no further action with respect to her complaint; Respondent thus closed the matter in January 2021 without taking any action.

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

*\*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 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 24, 2021 1 session

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

Hearing: September 2, 2021 1 session

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Total Hearing Session Fees = \$ 2,250.00

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.

**ARBITRATOR**

Robert E. Jenks

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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 E. Jenks***

Robert E. Jenks  
Sole Public Arbitrator

**09/11/2021**

Signature Date

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September 14, 2021

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