

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Rodney Seth Klein

Case Number: 21-00483

vs.

Respondent
Bryan Jeffrey Schon

Hearing Site: Nashville, Tennessee

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: Customer vs. Associated Person

This matter proceeded pursuant to Rule 12800 of the Code of Arbitration Procedure (“Code”).

The expungement hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

Claimant Rodney Seth Klein appeared pro se.

For Respondent Bryan Jeffrey Schon: Irisa Chen, Esq., Morgan Stanley Wealth Management, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 22, 2021.

Rodney Seth Klein signed the Submission Agreement: February 22, 2021.

Statement of Answer and Request for Expungement filed on or about: April 28, 2021.

Bryan Jeffrey Schon signed the Submission Agreement: April 28, 2021.

Response to Statement of Answer filed by Claimant on or about: June 18, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the causes of action of misrepresentation, unsuitability, omission of facts, fraud, and breach of fiduciary duty in connection with Claimant’s investment in PE Premier Vintage Secondary Strategies II Offshore Feeder LP.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in the Response to Statement of Answer, Claimant denied the allegations made in the Statement of Answer and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested \$25,000.00 in compensatory damages and \$25,000.00 in costs.

In the Statement of Answer, Respondent requested that the Statement of Claim be denied in its entirety, expungement of this matter from Respondent's Central Registration Depository ("CRD") records, and costs in connection with this proceeding.

In the Response to Statement of Answer, Claimant requested that Respondent remedy and assist Claimant in the sale/termination/redemption of the security at issue and be awarded costs in connection with this proceeding.

OTHER ISSUES CONSIDERED AND DECIDED

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

In his September 8, 2021 Application for Expungement Recommendation, Respondent asserted that expungement is appropriate under FINRA Rule 2080 because Respondent did not make any misrepresentations to Claimant about the investment at issue and the investment was suitable for Claimant. In Claimant's September 10, 2021 response, Claimant objected on the grounds that, among other things, Respondent knowingly misrepresented to Claimant that the investment at issue was liquid.

The Arbitrator conducted a recorded hearing by videoconference on September 14, 2021 so the parties could present oral argument and evidence on Respondent's request for expungement.

Claimant participated in the expungement hearing and, as set forth above, opposed the request for expungement.

The Arbitrator reviewed Respondent's BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

The Arbitrator noted that this dispute 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 and Respondent's testimony during the expungement hearing; Respondent's BrokerCheck® Report; the Arbitrator's decision on the papers regarding this dispute; and the pleadings with all exhibits.

AWARD

After considering the pleadings, the Arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety.
2. FINRA Dispute Resolution Services shall retain the \$425.00 filing fee that Claimant deposited previously.
3. Respondent shall reimburse Claimant \$212.50 representing one-half (50%) of the filing fee Claimant deposited previously.
4. The Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2119016) from registration records maintained by the CRD for Respondent Bryan Jeffrey Schon (CRD Number 4534736) with the understanding that, pursuant to Notice to Members 04-16, Respondent Bryan Jeffrey Schon 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 12805 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:

The allegation of breach of fiduciary duties is false and factually impossible because Respondent's conduct was, at all times, in accordance with the standards of all FINRA rules. Respondent conferred with Claimant numerous times to discuss his long-term and short-term investment intents and needs. Respondent recommended the PE Premier Vintage Secondary Strategies II Offshore Feeder LP ("Fund") because (i) it suited the Claimant's needs; and (ii) and it contained a good potential for a long-term positive investment result. Respondent explained the nature of the Fund verbally to Claimant. Respondent presented Claimant with the confidential Private Placement Memorandum for the Fund (which explicitly warned against the risks of illiquid investments). Respondent explained how the Fund was consistent with Claimant's account opening client profile (which was sent with all other documents) as a hard copy for Claimant and his wife to review. Claimant signed the Subscription Agreement. Claimant reviewed, completed, and signed all necessary authorization forms.

5. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code:

1. Non-Party Morgan Stanley has paid to FINRA Dispute Resolution Services the \$450.00 Member Surcharge.
2. The Arbitrator has assessed the \$1,125.00 expungement hearing session fee to Respondent.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATOR

Harvey R. Linder

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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

Harvey R. Linder

Harvey R. Linder
Sole Public Arbitrator

09/17/2021

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.

September 17, 2021

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