

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Kevin Patrick Hodson

Case Number: 21-00535

vs.

Respondent
Fidelity Brokerage Services LLC

Hearing Site: Boston, Massachusetts

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 Kevin Patrick Hodson: Dochter Kennedy, MBA J.D., and Erika Binnix, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Fidelity Brokerage Services LLC: David I. Hantman., Esq, Bressler, Amery & Ross, P.C., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 26, 2021.

Amended Statement of Claim filed on or about: May 12, 2021.

Kevin Patrick Hodson signed the Submission Agreement: February 26, 2021.

Statement of Answer filed by Respondent on or about: April 20, 2021.

Fidelity Brokerage Services LLC signed the Submission Agreement: April 20, 2021.

CASE SUMMARY

In the Statement of Claim and Amended Statement of Claim, Claimant asserted the following cause of action: expungement of Form U5/termination based on the defamatory nature of the entry.

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

RELIEF REQUESTED

In the Statement of Claim and Amended Statement of Claim, Claimant requested an award granting the expungement of the Form U5 corresponding with occurrence number 1971303, and those relevant portions of the Form U4, from Claimant's Central Registration Depository ("CRD") record, on the basis that the statement is defamatory in nature and tends to mislead, to include:

- a. Amendment of the Reason for Termination entry in Section 3 of Claimant's Form U5 to read "Voluntary;"
- b. Expungement of the Reason for Termination explanation on Claimant's CRD;
- c. Amendment of the answer to question 7F(2) on Claimant's Form U5, to "No;"
- d. Deletion of the Termination Disclosure Reporting Pages accompanying occurrence number 1971303;
- e. An award of damages in the amount of \$1.00 from Respondent; and
- f. Any other relief as the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested: that the Statement of Claim be dismissed in its entirety; all forum fees and costs be assessed against Claimant; and such other and further and different relief as the Arbitrator deems appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

On June 22, 2021, Claimant filed a Motion for Telephonic Hearing. Respondent opposed the motion and filed a Cross-Motion for Zoom Hearing. By Order dated July 8, 2021, the Arbitrator denied Claimant's motion and granted Respondent's Cross-Motion for Zoom Hearing.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's request for \$1.00 in damages is denied.
2. The Arbitrator recommends the expungement of the Reason for Termination and Termination Explanation in Section 3 of Kevin Patrick Hodson's (CRD Number 2691728) Form U5 filed by Fidelity Brokerage Services LLC (CRD Number 7784) on March 9, 2018 and maintained by the Central Registration Depository ("CRD"). The Reason for Termination shall be changed to "Other." The Termination Explanation shall be deleted in its entirety and replaced with the following language: "Disregard of company's policy due to inadvertence or oversight, not related to customer or sales practices." This directive shall apply to all references to the Reason for Termination and Termination Explanation.

The Arbitrator further recommends the expungement of all references to Occurrence Number 1971303 from the registration records maintained by the CRD for Kevin Patrick Hodson. Any "Yes" answers should be changed to "No," as applicable.

The above recommendations are made with the understanding that the registration records are not automatically amended. Kevin Patrick Hodson must obtain confirmation of this Award from a court of competent jurisdiction, before the CRD will execute the expungement directive, and must forward a copy of the Court Order to FINRA's Credentialing, Registration, Education and Disclosure Department for the amendments to be incorporated into the Registration Records.

FEES

Pursuant to the Code of Arbitration Procedure ("Code"), the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee = \$ 50.00

**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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge = \$ 150.00

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 @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: July 6, 2021 1 session

Two (2) hearing sessions on expungement request @ \$50.00/session = \$ 100.00
Hearing: November 22, 2021 2 sessions

Total Hearing Session Fees = \$ 150.00

The Arbitrator has assessed \$75.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$75.00 of the hearing session fees to Respondent.

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

ARBITRATOR

Mark Stuart Gurevitz

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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

Mark Stuart Gurevitz

Mark Stuart Gurevitz
Sole Public Arbitrator

12/06/2021

Signature Date

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December 07, 2021

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