

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Brian E. O'Neil

Case Number: 21-01041

vs.

Respondent
Triad Advisors LLC

Hearing Site: Denver, Colorado

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 Brian E. O'Neil ("Claimant"): Jeffrey R. Thomas, Esq., Thomas Law LLC, Denver, Colorado.

For Respondent Triad Advisors LLC ("Respondent"): James V. Noblett, Esq., Advisor Group, Jersey City, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: April 20, 2021.

Claimant signed the Submission Agreement: April 20, 2021.

Statement of Answer filed by Respondent on or about: April 29, 2021.

Respondent signed the Submission Agreement: April 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").

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 2078129 from Claimant's CRD records, including but not limited to (a) the "Yes" response to Question 7E(4)(a) of the Form U5 Amendment (and replacing it with a "No" response); and (b) all information in the Form U5 Amendment DRP relating to Occurrence Number 2078129; or
2. Expungement of "Yes" response to Question 7E(4)(a) of the Form U5 Amendment (and replace it with a "No" response and replacement of the "No" response to Question 7E(5)(a) of the Form U5 Amendment with a "Yes" response.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

On October 19, 2021, Claimant advised that the customer in Occurrence Number 2078129 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Panel conducted a recorded hearing by videoconference on December 14, 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 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 occurrences in the CRD.

The Panel also reviewed the settlement documentation related to Occurrence Number 2078129, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimant's exhibits; the settlement documentation; and Claimant's testimony.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of all references to Occurrence Number 2078129 from registration records maintained by the CRD for Claimant Brian E. O'Neil (CRD Number 2586624) with the understanding that, pursuant to Notice to Members 04-16, Claimant Brian E. O'Neil 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 false.

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

The Customer, a former customer of Respondent and Claimant, alleged in FINRA Case Number 19-02567 (the "Schneider Arbitration") that Respondent failed to conduct adequate due diligence concerning two investments he made approximately five years earlier in private funds managed by GPB Capital Holdings, LLC ("GPB"). The Customer and Respondent settled the Schneider Arbitration in November 2020 with no participation or contribution from Claimant in the settlement. The evidence presented at the hearing shows that Claimant was not involved in the first of the two alleged investment-related sales practice violations that were the subjects of the Schneider Arbitration, and further, that the second investment in GPB was not solicited by Claimant. Concerning the second alleged investment-related sales practice violation, the evidence presented at the hearing shows that Claimant did not recommend the investment; rather, the Customer asked to place additional money with GPB. Further, even if he did recommend the investment, Claimant fulfilled his due diligence obligations. These conclusions were fully supported by the uncontroverted documents and testimony at the hearing.

The Customer's claim, allegation, or information with respect to that investment is therefore, false. Accordingly, under FINRA Rule 2080(b)(1)(C), the Panel recommends expungement of all customer dispute information relating to the Schneider Arbitration from Claimant's CRD records.

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 = \$ 1,600.00

**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 = \$ 2,000.00
Member Process Fee = \$ 3,850.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ \$1,150.00/session = \$ 1,150.00
Pre-Hearing Conference: August 4, 2021 1 session

One (1) hearing session on expungement request @ \$1,150.00/session = \$ 1,150.00
Hearing: December 14, 2021 1 session

Total Hearing Session Fees = \$ 2,300.00

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

Steven Meyrich	-	Public Arbitrator, Presiding Chairperson
Mari C. Bush	-	Public Arbitrator
Richard M. Reider	-	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

Steven Meyrich

Steven Meyrich
Public Arbitrator, Presiding Chairperson

12/28/2021

Signature Date

Mari C. Bush

Mari C. Bush
Public Arbitrator

12/28/2021

Signature Date

Richard M. Reider

Richard M. Reider
Non-Public Arbitrator

12/29/2021

Signature Date

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December 29, 2021

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