

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

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In the Matter of the Arbitration Between:

Claimant  
Laura Hsin Chao

Case Number: 21-01115

vs.

Respondent  
Merrill Lynch Pierce Fenner & Smith Inc.

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

**REPRESENTATION OF PARTIES**

For Claimant Laura Hsin Chao (“Claimant”): Benjamin Winograd, Esq., HLBS Law, Westminster, Colorado.

For Respondent Merrill Lynch Pierce Fenner & Smith Inc. (“Respondent”): Patrick J. Mulligan, Esq., Bressler, Amery & Ross, P.C., Birmingham, Alabama.

**CASE INFORMATION**

Statement of Claim filed on or about: April 28, 2021.  
Claimant signed the Submission Agreement: April 28, 2021.

Statement of Answer filed by Respondent on or about: May 26, 2021.  
Respondent signed the Submission Agreement: May 26, 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 took no position on Claimant’s expungement request and asserted various affirmative defenses.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1886877 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(A) and 2080(b)(1)(C);
2. Deletion of all Disclosure Reporting Pages accompanying the underlying complaint, Occurrence Number 1886877; and
3. Any and all other relief that the Arbitrator deems just and equitable.

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

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

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

On June 4, 2021, the parties agreed to proceed with a single arbitrator for this matter.

On October 21, 2021, Claimant advised that the customer in Occurrence Number 1886877 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. On October 25, 2021, Claimant filed an Affidavit confirming that the Customer was served with the Statement of Claim and notice of the date and time of the expungement hearing.

On December 6, 2021, the Customer filed a notice in support of the request for expungement.

The Arbitrator conducted a recorded, telephonic hearing on December 7, 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 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 1886877 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 Statement of Claim; Claimant's Exhibits; testimony provided by Claimant at the expungement hearing; and notice of support from the Customer.

### **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 1886877 from registration records maintained by the CRD for Claimant Laura Hsin Chao (CRD Number 6443216) with the understanding that, pursuant to Notice to Members 04-16, Claimant Laura Hsin Chao 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 factually impossible or clearly erroneous.

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

The CRD Occurrence Number 1886877 is not a customer complaint, but rather stems from a customer question for clarification which Respondent recorded and classified as a complaint. Accordingly, the occurrence is factually impossible or clearly erroneous. The Customer did not pursue the matter beyond having asked the question and still uses Claimant as his financial advisor. Additionally, in connection with this proceeding, the Customer provided a notice to FINRA confirming that the communication previously identified and classified as a complaint was merely a request for clarification. Thus, the preponderance of the evidence described in detail supports that Occurrence Number 1886877 was not a customer complaint and thus, maintaining it on Claimant’s CRD as such does not serve the public interest.

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
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*\*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 event 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 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 @ \$1,150.00/session	= \$	1,150.00
Pre-Hearing Conference: August 16, 2021	1 session	
One (1) hearing session on expungement request @ \$1,150.00/session	= \$	1,150.00
Hearing: December 7, 2021	1 session	
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Total Hearing Session Fees	= \$	2,300.00

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**

Andrew M. Mintzer

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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**

***Andrew M. Mintzer***

Andrew M. Mintzer  
Sole Public Arbitrator

**12/08/2021**

Signature Date

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December 09, 2021

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