

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Dao Diem Phan

Case Number: 21-01124

vs.

Respondent
WMA Securities, Inc.

Hearing Site: New York, New York

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 Dao Diem Phan: Dochter Kennedy, MBA, J.D., and Frances Menzer, Esq., AdvisorLaw LLC, Westminster, Colorado.

Respondent WMA Securities, Inc did not enter an appearance.

CASE INFORMATION

Statement of Claim filed on or about: April 29, 2021.

Dao Diem Phan signed the Submission Agreement: April 29, 2021.

WMA Securities, Inc. did not file a Statement of Answer or sign the Submission Agreement.

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”).

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1022611; and any and all other relief that the Arbitrator deems just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

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

Claimant, the only party that appeared in this matter, requested that pursuant to Rule 13401(c) of the Code of Arbitration Procedure, this matter be decided by one arbitrator.

Respondent WMA Securities, Inc. did not file a Statement of Answer or a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and is bound by the determination of the Arbitrator on all issues submitted.

On September 17, 2021, Claimant advised that the customers in Occurrence Number 1022611 were served with the Statement of Claim and notice of the date and time of the expungement hearing. On September 20, 2021, Claimant filed an Affidavit confirming that the customers were 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 December 17, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing.

The customers in Occurrence Number 1022611 also did not participate in the expungement hearing. The Arbitrator found that the customers 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 1022611 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 testimony; Claimant's BrokerCheck® Report and exhibits.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, 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 1022611 from registration records maintained by the CRD for Claimant Dao Diem Phan (CRD Number 3111962) with the understanding that, pursuant to Notice to Members 04-16, Claimant Dao Diem Phan 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:

Based on the credible testimony of Claimant, supported by a consistent contemporaneous written explanation dated August 3, 2001, the Arbitrator finds that the customers were properly informed of the nature of the product they were purchasing. Hence their claim one year later of deception and non-disclosure of relevant information was false.

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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent WMA Securities, Inc. 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 23, 2021 1 session

One (1) hearing session on expungement request @ \$1,150.00/session = \$ 1,150.00

Hearing: December 17, 2021 1 session

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| Total Hearing Session Fees | = \$ 2,300.00 |
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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

Susan C Lushing

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Arbitrator's Signature

Susan C Lushing

Susan C Lushing
Sole Public Arbitrator

12/28/2021

Signature Date

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December 30, 2021

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