

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Goran Bojovski

Case Number: 21-01329

vs.

Respondent
Merrill Lynch, Pierce, Fenner & Smith Inc.

Hearing Site: Jersey City, New Jersey

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 Goran Bojovski: Robert E. Goldberg, Esq., Bressler Amery & Ross, P.C., New York, New York.

For Respondent Merrill Lynch, Pierce, Fenner & Smith Inc.: Maria V. Martin, Esq., Rubin, Fortunato & Harbison, P.C., Paoli, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on or about: May 21, 2021.
Goran Bojovski signed the Submission Agreement: May 21, 2021.

Statement of Answer filed by Respondent on or about: July 8, 2021.
Merrill Lynch, Pierce, Fenner & Smith Inc. signed the Submission Agreement: June 22, 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.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 2070753.

In the Statement of Answer, Respondent did not object to Claimant's expungement request.

OTHER ISSUES CONSIDERED AND DECIDED

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

On October 8, 2021, Claimant advised that the customer in Occurrence Number 2070753 was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on October 8, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement. At the hearing, the Arbitrator ordered the expungement hearing to be rescheduled so Claimant could provide proof of service on the customer in Occurrence Number 2070753.

The Arbitrator conducted a recorded, telephonic hearing on November 4, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement.

The customer also 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 also reviewed the settlement documentation related to Occurrence Number 2070753, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator 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 Arbitrator relied upon the following documentary or other evidence: the pleadings; the exhibits; Claimant's BrokerCheck® Report; and Claimant's testimony.

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 2070753 from registration records maintained by the CRD for Claimant Goran Bojovski

(CRD Number 4565961) with the understanding that, pursuant to Notice to Members 04-16, Claimant Goran Bojovski 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 findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and the claim, allegation, or information is false.

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

This occurrence involved a back-office failure to execute the customer’s intended sale of a pre-existing position. There was no sales practice violation involved. The firm entered the necessary trade corrections and compensated the customer for the amount he would have made had the trading error not occurred. The customer remained with the firm. Claimant was not a party to the settlement, nor did he contribute to it. The settlement agreement was not conditioned on consent to expungement. This occurrence should be expunged on the grounds that it is clearly erroneous or false. No formal complaint by the customer was made, and the clerical error was timely corrected by the firm. Claimant also testified as to the negative impact this disclosure has had on his business development efforts. The interests of consumer protection and awareness being in no way negatively implicated, the Arbitrator recommends the above occurrence be expunged from Claimant’s CRD pursuant to Rule 2080(b)(1)(A) and (b)(1)(C).

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:

Expungement 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:

Two (2) hearing sessions on expungement request @ \$1,150.00/session	2,300.00
Hearings: October 8, 2021 1 session	
November 4, 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

Robert E. Anderson

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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

Robert E. Anderson

Robert E. Anderson
Sole Public Arbitrator

11/24/2021

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.

November 24, 2021

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