

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Nicholas George Tsikitas

Case Number: 21-01370

vs.

Respondent
Aegis Capital Corp.

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 Nicholas George Tsikitas: Irwin Wertz, Esq., Wertz Kakos Gerbi Wolinetz Volynsky LLP, Mineola, New York.

For Respondent Aegis Capital Corp.: Kevin Meade, Aegis Capital Corp., New York, New York.

CASE INFORMATION

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

Nicholas George Tsikitas signed the Submission Agreement: May 26, 2021.

Statement of Answer filed by Respondent on or about: June 23, 2021.

Aegis Capital Corp. signed the Submission Agreement: June 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 object to Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 2051283

and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent requested that Claimant's claim for \$1.00 in compensatory damages be denied.

At the hearing, Claimant withdrew the request for \$1.00 in damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

On November 30, 2021, Claimant advised that the customer in Occurrence Number 2051283 ("Customer") was 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 January 5, 2022, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing and 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 also reviewed the settlement documentation related to Occurrence Number 2051283, 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: Claimant's credible testimony, emails between Claimant and the Customer, the settlement agreement, the account documentation, the customer call log, the unsolicited trade confirmations, the Statement of Claim and the Statement of Answer in the underlying customer dispute, and the JD Nicholas account documentation.

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 2051283 from registration records maintained by the CRD for Claimant Nicholas George Tsikitas (CRD Number 2871712) with the understanding that, pursuant to Notice to Members

04-16, Claimant Nicholas George Tsikitas 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:

Respondent does not oppose the expungement request. Claimant was not named as Respondent in the underlying arbitration filed against Respondent. Claimant’s credible denial that he did not “cold call” the Customer is supported by documentation confirming how Claimant acquired the Customer as a client. The Customer in the underlying FINRA arbitration filed against Respondent was a sophisticated investor. Claimant provided reams of e-mails detailing the Customer’s unsolicited trade requests and knowledge of all investments along with opening account statements stating the Customer’s investment objectives as being speculative. The Customer’s Statement of Claim asserting that the Customer suffered from dementia was not supported by any medical evidence. Claimant credibly testified that he spoke with the Customer several times a week and visited the Customer and his wife (out of state) numerous times and at no time did he find the Customer to be mentally impaired. Claimant credibly testified that he and the Customer had a very good relationship and that the Customer’s investment objectives were followed and confirmed. The Arbitrator found the Claimant’s testimony credible.

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: September 8, 2021 1 session	

One (1) hearing session on expungement request @ \$1,150.00/session	= \$ 1,150.00
Hearing: January 5, 2022 1 session	

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

Madelon M. Rosenfeld

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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

Madelon M. Rosenfeld

Madelon M. Rosenfeld
Sole Public Arbitrator

02/01/2022

Signature Date

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February 02, 2022

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