

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Elinor Kit-Man Ho

Case Number: 21-01406

vs.

Respondent
Vestax Securities Corporation

Hearing Site: Detroit, Michigan

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 Elinor Kit-Man Ho (“Claimant”) a/k/a Elinor Kit Man Ho: Chelsea Masters, Esq., HLBS Law, Westminster, Colorado.

Respondent Vestax Securities Corporation (“Respondent”) did not appear.

CASE INFORMATION

Statement of Claim filed on or about: June 1, 2021.

Claimant signed the Submission Agreement: June 1, 2021.

Respondent 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 1043589 from CRD registration records and any and all other relief that the Arbitrator deems just and appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent did not file 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 August 19, 2021, Claimant filed a Motion to Bar Defenses Due to Untimely Answer (“Motion to Bar”), to which no response was filed.

On September 17, 2021, Claimant requested that the arbitration panel consist of a single arbitrator pursuant to Rule 13401(c) of the Code (“Motion for Single Arbitrator”), to which no response was filed.

In an Order dated November 5, 2021, the Panel granted Claimant’s Motion to Bar and Claimant’s Motion for a Single Arbitrator and the Chairperson became the sole arbitrator.

On November 16, 2021, Claimant filed a Death Record for the customer in Occurrence Number 1043589 (“Customer”).

The Arbitrator conducted a recorded, telephonic hearing on February 4, 2022, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent did not participate in the expungement hearing.

The Arbitrator reviewed Claimant’s BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

The Arbitrator was unable to review the settlement documentation as Claimant did not receive a copy of the settlement agreement from Respondent despite a request and Claimant did not have a copy of settlement documentation in her possession. Based on the BrokerCheck® Report and the testimony and representations of Claimant, the Arbitrator 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 request for expungement, and the settlement was paid by Claimant’s E&O insurance and Claimant contributed the deductible.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Statement of Claim; Customer’s Death Record; Claimant’s BrokerCheck® Report; FINRA Notices of Respondent’s terminated membership status and of no answer received; Claimant’s letter dated February 3, 2022; Claimant’s testimony; and arguments of Claimant’s counsel.

AWARD

After considering the pleadings, the testimony and evidence presented at the 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 the above-captioned arbitration (Occurrence Number 1043589) from registration records maintained by the CRD for Claimant Elinor Kit-Man Ho (CRD Number 2559997) with the understanding that,

pursuant to Notice to Members 04-16, Claimant Elinor Kit-Man Ho 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, 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:

The evidence showed that the Customer complaint at issue was made through the Customer's son, who had apparently spoken to his unrelated financial advisor about recovering market losses due to the September 11, 2001 terrorist attacks. Respondent investigated the Customer complaint and found no merit in the claim but recommended settlement to avoid potential litigation/arbitration costs. Respondent and Claimant settled the customer complaint for the nominal amount of \$10,625.01. Claimant's E&O insurance paid the settlement amount and Claimant contributed her E&O deductible of \$10,000.00. The evidence showed that the Customer's alleged damages in her complaint were market losses resulting from the September 11, 2001 terrorist attacks. Claimant's recommendations regarding purchasing the annuity at issue was suitable.

2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, 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(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 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 the Panel @ \$1,150.00/session			
Pre-Hearing Conference: November 5, 2021	1 session	= \$	1,150.00
One (1) hearing session on expungement request @ \$1,150.00/session			
Hearing: February 4, 2022	1 session	= \$	1,150.00
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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

Patrick R. Sughroue

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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

Patrick R. Sughroue

Patrick R. Sughroue
Sole Public Arbitrator

02/23/2022

Signature Date

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February 23, 2022

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