

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Justin T. Hoyt

Case Number: 21-01440

vs.

Respondents
Chase Investment Services Corp.
Wells Fargo Clearing Services, LLC

Hearing Site: Phoenix, Arizona

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. Members

REPRESENTATION OF PARTIES

For Claimant Justin T. Hoyt (“Claimant”): Dochter Kennedy, MBA, J.D., and Samantha Pastor, Esq., AdvisorLaw LLC, Westminster, Colorado.

For Respondent Chase Investment Services Corp. (“Chase”): Neal S. Robb, Esq. and Mr. Saied Quadri, Esq., Keesal, Young & Logan, Long Beach, California.

For Respondent Wells Fargo Clearing Services, LLC (“Wells Fargo”): Jeffery D. Rodgers, Jr., Esq., Wells Fargo Legal Department, St. Louis, Missouri.

Hereinafter, Chase and Wells Fargo are collectively referred to as “Respondents”.

CASE INFORMATION

Statement of Claim filed on or about: June 3, 2021.
Claimant signed the Submission Agreement: June 3, 2021.

Statement of Answer filed by Chase on or about: July 6, 2021.
Chase signed the Submission Agreement: July 2, 2021.

Statement of Answer filed by Wells Fargo on or about: July 15, 2021.
Wells Fargo signed the Submission Agreement: July 15, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of customer dispute information registration records maintained by the Central Registration Depository ("CRD").

In its Statement of Answer, Chase took no position on Claimant's expungement request, denied any allegations of wrongdoing made in the Statement of Claim, and asserted various affirmative defenses.

In its Statement of Answer, Wells Fargo took no position on Claimant's expungement request and denied any allegations of wrongdoing made in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Numbers 1437881, 1453354 and 2020520, from his CRD records, pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible, or clearly erroneous;
2. Expungement of Occurrence Numbers 1437881, 1453354 and 2020520, from his CRD records, pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
3. Deletion of all Disclosure Reporting Pages accompanying Occurrence Numbers 1437881, 1453354 and 2020520; and
4. Any and all other relief that the Arbitrator deems just and equitable.

In its Statement of Answer, Chase made no specific request for relief.

In its Statement of Answer, Wells Fargo requested:

1. Costs be assessed consistent with FINRA Rules; and
2. Any other such relief be granted that is deemed appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

On July 8, 2021, the Parties agreed to proceed with a single arbitrator in this matter.

On January 31, 2022, Claimant advised that the customers in Occurrence Numbers 1437881 ("Mr. M"), 1453354 ("Mr. B") and 2020520 ("Mr. C") were served with the Statement of Claim and notice of the date and time of the expungement hearing. On February 7, 2022, Claimant filed an Affidavit confirming that Mr. M, Mr. B and Mr. C were 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 February 28, 2022, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondents participated in the expungement hearing and as stated in their respective Statements of Answer, did not oppose the request for expungement.

A representative for Mr. C participated in the hearing and did not oppose the expungement request. Mr. M and Mr. B did not participate in the hearing. The Arbitrator found that Mr. M and Mr. B 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 has not previously ruled on expungement of the same occurrences in the CRD.

The Arbitrator noted that the disputes related to Occurrence Numbers 1437881, 1453354 and 2020520 were not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's exhibits, Claimant's testimony, and the testimony of Mr.C's representative.

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 Numbers 1437881 and 1453354 from registration records maintained by the CRD for Claimant Justin T. Hoyt (CRD Number 4690876) with the understanding that, pursuant to Notice to Members 04-16, Claimant Justin T. Hoyt 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.

The claim, allegation, or information is false.

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

Occurrence Numbers 1437881 and 1453354

Claimant fully explained the risks involved in the variable annuity, and Mr. M and Mr. B acknowledged the risks. The Arbitrator finds that the investments were suitable. In each case, the market drop, leading to the claims, was caused by the "crash" of 2008-09, when Claimant was no longer associated with the customer or the account. Both claims were denied and no settlement was paid.

2. The Arbitrator also recommends the expungement of all references to Occurrence Number 2020520 from registration records maintained by the CRD for Claimant Justin T. Hoyt (CRD

Number 4690876) with the understanding that, pursuant to Notice to Members 04-16, Claimant Justin T. Hoyt 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 findings of fact:

The expungement relief and accompanying findings on which it is based are meritorious.

The expungement would have no material adverse effect on investor protection, the integrity of the CRD system or regulatory requirements.

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

Occurrence Number 2020520

The allegation consists of "suitability" and "misrepresentation". Claimant fully explained the risks involved in the variable annuity, and Mr. C acknowledged the risks. The Arbitrator finds that the investment was suitable, and testimony did not contradict that finding. The misrepresentation in classifying the variable annuity as a non-qualified investment was made in order to use qualified funds to purchase the annuity in an LLC. Mr. C did not suffer adverse tax consequences as a result of the misrepresentation. The representative of Mr. C testified that his attempts to have the investment correctly classified were not intended to have an occurrence recorded, but stated that the occurrence, as relates to misrepresentation, is accurate. In other words, there was a complaint, but no claim or settlement. The Arbitrator finds that Claimant, in fact, made the misrepresentation.

Expungement is recommended under FINRA Rule 2080 (b)(2)(A) and (b)(2)(B) in that the expungement relief and findings on which it is based are meritorious; and the expungement would have no material adverse effect on investor protection, the integrity of the CRD system or regulatory requirements.

3. 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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as parties, Respondents are each 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 22, 2021	1 session	
One (1) hearing session on expungement request @ \$1,150.00/session	= \$	1,150.00
Hearing: February 28, 2022	1 session	
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

Benjamin F. Breslauer

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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

Benjamin F. Breslauer

Benjamin F. Breslauer
Sole Public Arbitrator

03/22/2022

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.

March 23, 2022

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