

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
David Anthony Spratt

Case Number: 21-01630

vs.

Respondent
Alexander Capital, L.P.

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 David Anthony Spratt: Scott Holcomb, Esq., Holcomb + Ward, LLP, Atlanta, Georgia.

For Respondent Alexander Capital, L.P.: Rocco Guidicierto, Alexander Capital, L.P, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: June 25, 2021.

David Anthony Spratt signed the Submission Agreement: June 25, 2021.

Statement of Answer filed by Respondent on or about: July 12, 2021.

Alexander Capital, L.P. signed the Submission Agreement: July 14, 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 supported Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 2087985, 2087986, and 2087987.

In the Statement of Answer, Respondent requested that Claimant's expungement request be granted.

OTHER ISSUES CONSIDERED AND DECIDED

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

On November 1, 2021, Claimant advised that the customers in Occurrence Numbers 2087985, 2087986 and 2087987 ("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 20, 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 Numbers 2087985, 2087986, and 2087987 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 occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Numbers 2087985, 2087986, and 2087987, considered the amount of payment made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to the settlement amounts.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings; Claimant's testimony; Respondent's Chief Executive Officer's declaration that Claimant never served as the Registered Representative for any of the customers; Claimant's BrokerCheck® Report; Settlement Agreements; and exhibits.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Arbitrators recommends the expungement of all references to Occurrence Numbers 2087985, 2087986, and 2087987 from registration records maintained by the CRD for

Claimant David Spratt (CRD Number 2555268) with the understanding that, pursuant to Notice to Members 04-16, Claimant David Spratt 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 Arbitrators has made the following Rule 2080 affirmative finding of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The Arbitrators has made the above Rule 2080 finding based on the following reasons:

The evidence demonstrated that Claimant did not know the customers in Occurrence Numbers 2087985, 2087986, 2087987, and never served as their broker. He also was not their broker’s supervisor. Claimant’s sole responsibility was to execute trades as requested by the customers’ brokers. In two of the occurrences, the customers withdrew the claims against Claimant prior to settlement with Respondent and in the other occurrence although Claimant was named in the complaint the claim was withdrawn prior to settlement with Respondent. In none of the settlements did Claimant make any contribution.

As Claimant never interacted with the customers and was not involved in the alleged investment-related sales practice violation or any other claim and the claims that were made were false, the claims should be expunged from Claimant’s record.

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 Alexander Capital, L.P. is assessed the following:

Member Surcharge	= \$ 2,000.00
Member Process Fee	= \$ 3,850.00

Hearing Session Fees and Assessments

The Arbitrators have assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrators, including a pre-hearing conference with the Arbitrators, 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	= \$ 1,150.00
Pre-Hearing Conference: October 13, 2021	1 session

One (1) hearing session on expungement request @ \$1,150.00/session	= \$ 1,150.00
Hearing: December 20, 2021	1 session

Total Hearing Session Fees	= \$ 2,300.00
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The Panel has assessed the total hearing session fees to Claimant.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATION PANEL

Gerald M. Levine	-	Public Arbitrator, Presiding Chairperson
Dora M. Lassinger	-	Public Arbitrator
Judith C. Aarons	-	Non-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.

Concurring Arbitrators' Signatures

Gerald M. Levine

Gerald M. Levine
Public Arbitrator, Presiding Chairperson

01/10/2022

Signature Date

Dora M. Lassinger

Dora M. Lassinger
Public Arbitrator

01/10/2022

Signature Date

Judith C. Aarons

Judith C. Aarons
Non-Public Arbitrator

01/11/2022

Signature Date

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January 11, 2022

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