

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Bradley Darryl Tiche

Case Number: 21-01751

vs.

Respondent
Cambridge Investment Research, Inc.

Hearing Site: Pittsburgh, Pennsylvania

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 Bradley Darryl Tiche (“Claimant”): Dochter Kennedy, Esq. and Michelle Atlas, Esq., AdvisorLaw LLC, Westminster, Colorado.

For Respondent Cambridge Investment Research, Inc. (“Respondent”): Jeanette E. Dennis, Esq., Cambridge Investment Research, Inc., Fairfield, Iowa.

CASE INFORMATION

Statement of Claim filed on or about: July 12, 2021.
Claimant signed the Submission Agreement: July 9, 2021.

Statement of Answer filed on or about: August 4, 2021.
Respondent signed the Submission Agreement: August 9, 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 denied any wrongdoing and asserted affirmative defenses but did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 2080398

and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that the Arbitrator dismiss all claims as directed against it; enter an award in its favor for its costs and expenses incurred in defending this action; assess all forum fees against Claimant; and award such other relief as the Arbitrator deems appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

On August 17, 2021, the parties agreed to the appointment of a single arbitrator pursuant to Rule 13401(c) of the Code of Arbitration Procedure ("Code").

On October 7, 2021, Claimant advised that the customer in Occurrence Number 2080398 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On October 11, 2021, Claimant filed an Affidavit confirming that the Customer was served with the Notice. Claimant also filed a copy of the FedEx tracking information available online for the Notice.

On October 22, 2021, the Customer submitted a letter and exhibits responsive to the Statement of Claim, asserting that the Statement of Claim contains misleading statements and mistruths.

The Arbitrator conducted a recorded hearing by videoconference on October 29, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

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

The Customer did not attend 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 2080398, 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 contributed to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony; Claimant's Exhibits 1- 7; Claimant's BrokerCheck® Report; and the Customer's submission dated October 22, 2021.

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 2080398 from registration records maintained by the CRD for Claimant Bradley Darryl Tiche (CRD Number 2072348) with the understanding that, pursuant to Notice to Members 04-16, Claimant Bradley Darryl Tiche 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 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:

The Customer became Claimant's client in 2016. Her investment objective was capital appreciation with moderate risk. Among other investments, she held two Jackson annuities. In 2018, in consultation with her accountant, and after presentation of different investment proposals, Claimant recommended, and the Customer approved, surrendering the annuities and investing the full principal amount in a managed account. Despite a back-office clerical error, the Customer was made aware that she would no longer receive guaranteed monthly income. Additionally, she signed and completed all necessary disclosures.

Almost two years later, the Customer complained to Respondent that the surrender of the annuities was not in her best interests. Her claim was settled by Respondent for a nominal amount. Claimant contributed \$7,500.00 to the settlement which was not conditioned on consent to expungement.

The interests of consumer protection and awareness being in no way negatively implicated, the Arbitrator recommends that Occurrence Number 2080398 be expunged on the grounds that it is clearly erroneous and false. The Customer was aware of the reason for surrendering the annuities and authorized the transaction. The Arbitrator further noted that Claimant testified as to the negative impact these disclosures have had on his business and development efforts.

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:

Initial Claim Filing Fee =\$ 1,600.00

**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 @ \$1,150.00/session =\$ 1,150.00

Pre-Hearing Conference: September 27, 2021 1 session

One (1) hearing session on expungement request @ \$1,150.00/session =\$ 1,150.00

Hearing: October 29, 2021 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

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

11/11/2021

Signature Date

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November 12, 2021

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