

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Emily Jing Chang

Case Number: 21-01836

vs.

Respondent  
J.P. Morgan Securities, LLC

Hearing Site: San Francisco, California

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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 Emily Jing Chang (“Claimant”): Michelle Atlas, Esq. HLBS Law, Westminster, Colorado.

For Respondent J.P. Morgan Securities, LLC (“Respondent”): Shipra K. Rege, Esq., Ulmer & Berne LLP, Cleveland, Ohio.

**CASE INFORMATION**

Statement of Claim filed on or about: July 19, 2021.  
Claimant signed the Submission Agreement: July 19, 2021.

Statement of Answer filed by Respondent on or about: September 29, 2021.  
Respondent signed the Submission Agreement: September 29, 2021.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted a claim alleging that the Form U5 filed by Respondent, as a part of registration records maintained by the Central Registration Depository (“CRD”), is defamatory in nature, misleading, inaccurate, and/or erroneous.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of the Form U5 amendments corresponding with Occurrence Number 1693571, and those relevant portions of the Form U4 from Claimant's CRD records on the basis that the statement is defamatory in nature, misleading, inaccurate, and/or erroneous, to include:
  - a. amendment of the Reason for Termination entry in Section 3 of Claimant's Form U5 to read "Voluntary";
  - b. expungement of the Termination Explanation from Claimant's Form U5;
  - c. amendment of the answer to question 7F(1) on Claimant's Form U5, from a "Yes" response to "No";
  - d. deletion of the Termination Disclosure Detail (U4) from the CRD, including:
    - i. deletion of the Termination Type;
    - ii. deletion of the Explanation for the termination; and
    - iii. deletion of the Allegation(s) associated with the termination;
  - e. deletion of the Termination Disclosure Detail (U5) from the CRD, including:
    - i. deletion of the Termination Type;
    - ii. deletion of the Explanation for the termination; and
    - iii. deletion of the Allegation(s) associated with the termination; and
  - f. deletion of the Termination Disclosure Reporting Page accompanying Occurrence Number 1693571 from the CRD;
2. Compensatory damages in the amount of \$1.00; and
3. Any other relief as the arbitration Panel deems just and equitable.

In the Statement of Answer, Respondent requested Claimant's claims be dismissed.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On September 30, 2021, Respondent filed a Motion to Dismiss pursuant to Rule 13206 of the Code of Arbitration Procedure ("Code"). On October 18, 2021, Claimant filed a response opposing the Motion to Dismiss. On October 22, 2021, Respondent filed a reply in support of the Motion to Dismiss. On December 8, 2021, the Arbitrator heard oral arguments on the Motion to Dismiss. The Arbitrator hereby grants the Motion to Dismiss for the reasons stated in the Findings section below.

Respondent's Motion to Dismiss pursuant to Rule 13206 of the Code is granted by the Arbitrator without prejudice to any right Claimant has to file in court; Claimant is not prohibited from pursuing her claims in court pursuant to Rule 13206(b) of the Code.

### **FINDINGS**

Respondent seeks dismissal of Claimant's claim for expungement pursuant to Rule 13206 of the Code ("Rule 13206").

Rule 13206(a) states: "No claim shall be eligible for submission to arbitration under the Code where six years have elapsed from the occurrence or event giving rise to the claim. The panel

will resolve any questions regarding the eligibility of a claim under this rule."

The "occurrence or event giving rise to" Claimant's expungement request was the disclosure of Claimant's termination on Claimant's Form U5. This occurred on February 21, 2014, which is more than six years before Claimant filed her Statement of Claim. Therefore, based on the expressed language of Rule 13206, Claimant's expungement claim is ineligible for arbitration.

Claimant attempts to get around application of Rule 13206 to her claim by contending that either the occurrence or event is continuing because allegedly derogatory information continues to appear on the BrokerCheck website, or alternatively, that the "occurrence or event" again occurred when access to the BrokerCheck website was enhanced in 2016.

The Arbitrator does not find either argument persuasive. If the continued presence of the allegedly derogatory information on the BrokerCheck website constituted a continuing violation, then Rule 13206 would never bar expungement actions. Further, the enhancements to the BrokerCheck website in 2016 do not constitute an "event or occurrence" under Rule 13206 because Respondent took no further action in 2016 with respect to Claimant's U5.

The authorities cited in Respondent's moving papers and reply support the Arbitrator's determination that the "occurrence or event" triggering the claim for expungement in this case was the submission of the Form U5 by Respondent to the CRD records. Since that event occurred more than six years before Claimant filed this arbitration, Respondent's motion to dismiss is granted.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the December 8, 2021 recorded pre-hearing conference, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims are dismissed without prejudice, pursuant to FINRA Rule 13206.

### **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	= \$	50.00
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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	= \$	150.00
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**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:

Two (2) pre-hearing sessions with a single Arbitrator @ \$50.00/session	= \$	100.00
Pre-Hearing Conferences: November 19, 2021	1 session	
December 8, 2021	1 session	
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Total Hearing Session Fees	= \$	100.00

The Arbitrator has assessed \$50.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$50.00 of the hearing session fees to Respondent.

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

**ARBITRATOR**

Jonathan Polland

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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**

***Jonathan Polland***

Jonathan Polland  
Sole Public Arbitrator

**12/22/2021**

Signature Date

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December 23, 2021

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