

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
John D. Jacobs

Case Number: 21-02875

vs.

Respondent
Oppenheimer & Co., Inc.

Hearing Site: Chicago, Illinois

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 John D. Jacobs (“Claimant”): David I. Hantman, Esq., Bressler, Amery & Ross, P.C., New York, New York.

For Respondent Oppenheimer & Co., Inc. (“Respondent”): Nicola Anne Murphy, Esq., Oppenheimer & Co. Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: November 19, 2021.
Claimant signed the Submission Agreement: November 18, 2021.

Statement of Answer filed on or about: December 21, 2021.
Respondent signed the Submission Agreement: December 21, 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 did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1160860 and 1143138 from CRD registration records.

In the Statement of Answer, Respondent requested that that all costs and fees associated with the Claim be assessed solely against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

On December 23, 2021, Claimant filed an agreement to proceed with a single arbitrator.

On February 7, 2022, Claimant advised that the customers in Occurrence Numbers 1160860 and 1143138 (“Customers”) were served with the Statement of Claim and notice of the date and time of the expungement hearing (“Notices”). Also, Claimant filed FedEx proof-of-delivery for the Notices.

The Arbitrator conducted a recorded, telephonic hearing on February 15, 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 Customers 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 has not previously ruled on expungement of the same occurrences in the CRD.

The Arbitrator was unable to review the settlement documentation related to Occurrence Number 1160860, as Respondent was unable to locate any documents related to settlement due to the passage of time. Based upon the BrokerCheck® Report and Claimant’s testimony, 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 that Claimant did not contribute to the settlement amount.

The Arbitrator noted that the dispute related to Occurrence Number 1143138 was not settled and, therefore, there was no settlement documentation to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant’s testimony and Exhibits A, D, I, J, and M.

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:

The Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Numbers 1160860 and 1143138) from registration records maintained by the CRD for Claimant John David Jacobs (CRD Number 872707) with the

understanding that, pursuant to Notice to Members 04-16, Claimant John David Jacobs 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 finding of fact:

The claim, allegation, or information is false.

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

Occurrence Number 1160860:

The allegations that Claimant did not provide hedging strategies to protect her concentrated RCN position is false. The customer was referred to the Claimant by her tax attorney for the purpose of avoiding extreme concentration. Claimant discussed the risk of owning one stock and advised collar options to reduce the risk. The customer refused to sell the stock, hoping it would go up to its original value.

Occurrence Number 1143138:

The allegations of recommending unsuitable funds with back-end fees is false. Claimant discussed the need for the customer to invest in equities to yield enough income for her spending habits as well as discussed B shares. In addition, the customer was listed for aggressive growth.

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) hearing session on expungement request @ \$1,150.00/session	= \$	1,150.00
Hearing: February 15, 2022 1 session		

Total Hearing Session Fees	= \$	1,150.00
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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

Leon Fox

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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

Leon Fox

Leon Fox
Sole Public Arbitrator

02/23/2022

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.

February 23, 2022

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