

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Edward Paul Hadel

Case Number: 21-02545

vs.

Respondent
Woodbury Financial Services, Inc.

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 Edward Paul Hadel: Jessica E. Levine, Esq., Winget, Spadafora & Schwartzberg, LLP, New York, New York.

For Respondent Woodbury Financial Services, Inc.: James V. Noblett, Esq., Woodbury Financial Services, Inc., Jersey City, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: October 6, 2021.

Edward Paul Hadel signed the Submission Agreement: October 4, 2021.

Woodbury Financial Services, Inc. did not file a Statement of Answer nor sign the Submission Agreement.

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”).

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 2049106 from his CRD record.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and, having appeared, and testified at the hearing, is bound by the determination of the Arbitrator on all issues submitted.

On April 8 and 26, 2022, Claimant advised that the customer in Occurrence Number 2049106 was 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 June 30, 2022, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and did not oppose the request for expungement.

The customer did not participate in 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 2049106, 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 did not contribute to the settlement.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the exhibits, including the customer's complaint letter and the private placement memoranda and Subscription Agreements with respect to the two investments at issue; and Claimant's testimony.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, 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 2049106 from registration records maintained by the CRD for Claimant Edward Paul Hadel (CRD Number 1017223) with the understanding that, pursuant to Notice to Members 04-16, Claimant Edward Paul Hadel 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; and the claim, allegation, or information is false.

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

The customer complaint was contained in its counsel's September 10, 2019, letter that raised 4 claims with respect to two related investments totaling \$300,000 out of an approximately \$7 million portfolio. It alleged: (1) Claimant did not discuss commissions he received when he sold the two funds in question; (2) Claimant had not warned that the subject funds could suspend redemptions; (3) the Trustee of the Trust was not warned how risky the investments were; and (4) the Trust did not ask to generate large returns. By clear and convincing testimony, and with the use of the relevant documents, Claimant established that these claims were both false and clearly erroneous. Claimant had numerous conversations with the Trustee and her son, who did independent research with respect to the investment ideas Claimant suggested. Claimant explained to them that these two investments, because they were not liquid, were outside the Trust's fee schedule, and that Claimant and his employer were being compensated by the subject companies, from the Trust's original investment. Not only did Claimant advise the Trustee and her son that the funds could suspend redemption, but the private placement memoranda and the Trustee-executed Subscription Agreement for each investment spelled this out in writing. Claimant and the relevant documents all outlined the risks of these two investments. Finally, although the great bulk of the funds under management were invested extremely conservatively, the Trustee and her son wanted to use a small portion of the Trust to generate larger returns and invest those returns in stock. In short, Claimant established that there was nothing inappropriate about investing \$300,000 out of an approximately \$7 million portfolio in these investments. It was entirely unforeseeable that these two related companies would have an extraordinary internal fraud situation and be taken over by a monitor. Interestingly, when the Trustee's son emailed Claimant that the Trust was transferring the funds to another institution, he never suggested that Claimant had erred in any way, or that these two investments played any role in the decision (the Trust was essentially made whole by a settlement agreement to which Claimant was neither a party nor did he consent to or contribute to). In sum, Claimant clearly met the expungement standard of FINRA Rule 2080 (A) and (C) and followed all required procedural steps to be entitled to expungement.

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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent Woodbury Financial Services Inc. 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: March 15, 2022, 1 session	
One (1) hearing session on expungement request @ \$1,150.00/session	= \$ 1,150.00
Hearing: June 30, 2022, 1 session	

Total Hearing Session Fees	= \$ 2,300.00
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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

Joan Maxine Secofsky

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Sole 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.

Arbitrator's Signature

Joan Maxine Secofsky

Joan Maxine Secofsky
Sole Public Arbitrator

07/08/2022

Signature Date

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July 11, 2022

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