

**Expungement Award
FINRA Dispute Resolution Services**

In the Matter of the Arbitration Between:

Claimant

Howard Hao-Chung Hsieh

Case Number: 23-02893

vs.

Respondent

Cetera Investment Services LLC

Hearing Site: Los Angeles, California

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 expungement hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Howard Hao-Chung Hsieh (“Claimant”): Christina Z. Vourakis, Esq., Winget Spadafora & Schwartzberg LLP, Los Angeles, California.

For Respondent Cetera Investment Services LLC (“Respondent”): Jeremy Carr, Esq., Cetera Financial Group, El Segundo, California.

CASE INFORMATION

Statement of Claim filed on or about: October 12, 2023.

Claimant signed the Submission Agreement: October 11, 2023.

Statement of Answer filed by Respondent on or about: December 1, 2023.

Respondent signed the Submission Agreement: December 14, 2023.

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 made in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant (CRD Number 4947882) requested expungement of Occurrence Numbers 2144992, 2217145, and 2254127 from Claimant's CRD records, pursuant to Rule 2080(b)(1)(A) and 2080(b)(1)(C).

In the Statement of Answer, Respondent requested:

1. A statement from the Arbitrator on the issue of whether to order recommending that the customer complaints be expunged from Claimant's CRD records in the form required by FINRA Rule 2080; and
2. All forum costs and fees be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

On December 6, 2023, the parties agreed to proceed with a single arbitrator for this matter.

On August 23, 2024, Claimant advised that the customers in Occurrence Numbers 2144992 ("Ms. Z"), 2217145 ("Ms. C"), and 2254127 ("Mr. Z") were served with the Statement of Claim and notice of the date and time of the expungement hearing. Hereinafter, Ms. Z, Ms. C, and Mr. Z are collectively referred to as "Customers". The Arbitrator found that the Customers had notice of the expungement request and hearing.

The Arbitrator conducted a recorded hearing by videoconference on September 10, 2024, so the parties could present oral argument and evidence on Claimant's request for expungement. Claimant participated by videoconference at the expungement hearing. Respondent did not participate in the expungement hearing.

The Customers did not participate in the expungement hearing.

The Arbitrator noted Claimant's representation that a prior arbitration panel or court has not previously ruled on expungement of the same occurrences in the CRD.

The Arbitrator reviewed the settlement documentation related to Occurrence Numbers 2217145 and 2254127, 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.

The Arbitrator noted that the dispute related to Occurrence Number 2144992 was not settled and, therefore, there was no settlement documentation to review.

The Arbitrator relied upon the following documentary or other evidence: Claimant's pleadings; Claimant's submissions and exhibits, including new account applications and documentations required to purchase REITs; prospectuses which included a list of risk factors, and specific representations that the investment was illiquid and had no guaranty of any distribution; documents confirming the Customers' acknowledgements on illiquidity and that they could lose all of the investments; settlement agreements; and Claimant's testimony.

AWARD

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

The Arbitrator awards the expungement of all references to Occurrence Numbers 2144992, 2217145, and 2254127 from registration records maintained by the CRD for Claimant Howard Hao-Chung Hsieh (CRD Number 4947882) with the understanding that, pursuant to Rule 2080, Claimant Howard Hao-Chung Hsieh 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 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The claim, allegation, or information is false.

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

In or about 2015, the Customers purchased ARC Hospitality REIT. In May, 2021, ARC Hospitality REIT, which was significantly affected by the COVID pandemic, filed for bankruptcy. The Customers were solicited by attorneys who filed claims against Respondent only. No claims were filed against Claimant. Ms. Z abandoned her claim. Respondent settled Ms. C’s claim and Mr. Z’s claim. Claimant did not participate in or contribute any money to the settled claims.

Claimant did nothing wrong. The investments were suitable for each investor. Each investor represented in writing that they had a substantial liquid net worth, that they received a prospectus detailing the RISK FACTORS and each customer confirmed in writing that they understood that the investment was ILLIQUID, and that they might lose all of their investment in the REIT. Claimant provided comprehensive documentation of each client’s account, the documents signed by each client required to purchase the REIT, and Claimant’s detailed records of his communications with each customer. Prior to the bankruptcy, none of the Customers had any complaints.

Expungement is GRANTED. The complaints and allegations made by each customer were factually impossible or clearly erroneous (2080 (b)(1)(A)) and each claim, allegation or information was false (2080 (b)(1)(C)).

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

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

June 26, 2024, postponement requested by parties = \$ Waived

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(s), including a pre-hearing conference with the Arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single Arbitrator @ \$1,150.00/session = \$ 1,150.00
Pre-Hearing Conference: January 25, 2024 1 session

One (1) hearing session on expungement request @ \$1,150.00/session = \$ 1,150.00
Hearing: September 10, 2024 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 D. Sussin

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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 D. Sussin

Robert D. Sussin
Sole Public Arbitrator

09/12/2024

Signature Date

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September 13, 2024

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