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| Zickerman v Financial Indus. Regulatory Auth., Inc. |
| 2018 NY Slip Op 30504(U) |
| March 23, 2018 |
| Supreme Court, New York County |
| Docket Number: 650376/18 |
| Judge: Shlomo S. Hagler |
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application having regularly come on to be heard, and after due deliberation having been had thereon,

NOW, upon the application of Bressler, Amery & Ross, P.C., attorneys for Petitioner, it is hereby

ORDERED that the Petition is hereby granted solely to that portion of the arbitrators' Award in the FINRA Arbitration recommending expungement, is confirmed consistent with the below:

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

- I. The Arbitrator recommends the expungement of all references to Occurrence #1191269 from registration records maintained by the Central Registration Depository ("CRD") for Terry Ian Zickerman (CRD# 2332579), with the understanding that, pursuant to Notice to Members 04-16, Terry Ian Zickerman 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 finding 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 for the following reasons: The challenged disclosure is an arbitration alleging unsuitability of certain investments. Upon receipt of the claim the firm investigated the matter and filed an Answer stating that there was no wrongdoing by the firm or Mr. Zickerman, and providing specific reasoning as to why the claim should be dismissed. Mr. Zickerman was subsequently dismissed from the arbitration, and the matter was settled for less than 15% of the damages claimed as a business decision by the firm. Mr. Zickerman was not asked to contribute, nor did he contribute, to the settlement. The undersigned Arbitrator heard testimony and reviewed evidence that showed, contrary to the claims, the customer's portfolio was invested suitably and in line with his stated goals and objectives. Any losses suffered were a result of the customer's own investment decisions and market declines and not due to any wrongdoing by Mr. Zickerman. After the settlement in 2005, a Stipulation was agreed to and signed by the parties that recommended the expungement of the matter from Mr. Zickerman's CRD. However, the Stipulation recommending

expungement was not submitted to or executed by the FINRA Panel. Accordingly, the allegations in the claim are clearly erroneous and false as to Mr. Zickerman and do not provide any accurate or meaningful information to potential investors.

- II. The Arbitrator recommends the expungement of all references to Occurrence #1201023 from registration records maintained by the Central Registration Depository ("CRD"), for Terry Ian Zickerman (CRD #2332579) with the understanding that, pursuant to Notice to Members 04-16, Terry Ian Zickerman 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 finding 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 for the following reasons: The challenged disclosure contains allegations of unsuitable investments. Upon receipt of the claim the firm investigated the matter and filed an Answer stating that there was no wrongdoing by the firm or Mr. Zickerman, and providing specific reasoning as to why the claim should be dismissed. Mr. Zickerman was subsequently dismissed from the arbitration, and the matter was settled for a nominal amount as a business decision by the firm. Mr. Zickerman was not asked to contribute, nor did he contribute, to the settlement. The undersigned Arbitrator heard testimony and reviewed evidence that showed that the investments at issue were already owned by the customer prior to establishing his accounts with Mr. Zickerman and only transferred into his account. There were no suitability requirements because Mr. Zickerman did not make any recommendations, purchases or sales of the products at issue in the complaint. Any losses suffered were the result of investment decisions made by the customer prior to establishing his accounts with Mr. Zickerman. After the 2005 settlement, a Stipulation was agreed to and signed by the parties that recommended the expungement of the matter from Mr. Zickerman's CRD. However, the Stipulation recommending expungement was not submitted to or executed by the FINRA Panel. Accordingly, the allegations in the claim are clearly erroneous and false as to Mr. Zickerman and do not provide any accurate or meaningful information to potential investors.

- III. The Arbitrator recommends the expungement of all references to Occurrence #1305036 from registration records maintained by the Central Registration Depository ("CRD"), for Terry Ian Zickerman (CRD# 2332579), with the understanding that, pursuant to Notice to Members 04-16, Terry Ian Zickerman 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 finding of fact:

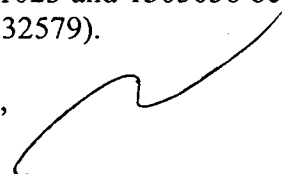
- The claim, allegation, or information is factually impossible or clearly erroneous; and
- The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings for the following reasons: The challenged disclosure contains allegations of unsuitable investments. Upon receipt of the claim the firm investigated the matter and filed an Answer stating that there was no wrongdoing by the firm or Mr. Zickerman. The matter was settled for approximately 5% of claimed damages as a business decision by the firm. Mr. Zickerman was not asked to contribute, nor did he contribute, to the settlement. The firm found, and the resolution reached confirms, that Mr. Zickerman did not mismanage the customer's accounts or in any other way engage in any wrongdoing. The undersigned Arbitrator heard testimony and reviewed evidence showing that the investments at issue were already owned by the customer prior to establishing her accounts with Mr. Zickerman. There were no suitability requirements because Mr. Zickerman did not make any recommendations, purchases or sales of the products at issue in the complaint. Further, the customer was a sophisticated investor with many years of investing experience. The investments in her accounts were the result of her desires and requests, and any losses suffered were the result of the investment decisions and profile strategies deployed by the customer. Accordingly, the allegations in the claim are clearly erroneous and false as to Mr. Zickerman and do not provide any accurate or meaningful information to potential investors.

- IV. Any and all claims for relief not specifically addressed herein are denied.

ORDERED that all references to Occurrence Nos. 1191269, 1201023 and 1305036 be expunged from the FINRA CRD records of Terry Ian Zickerman (CRD# 2332579).

Enter,



, J.S.C.

SHLOMO HAGLER

J.S.C.