Financial Industry Regulatory Authority

AWARD INFORMATION SHEET (FLORIDA EDITION)

**** Section 14 updated ****

Award Information Sheet CASE NUMBER:

To prepare an award, FINRA Dispute Resolution needs certain information from the panel. After the panel has reached a decision, please provide the following information to the staff person assigned to the case.

1. Please indicate the nature of the **initial** claim that was filed. Note: AP is the abbreviation for Associated Person.

[ ] Customer vs. Member & AP
[ ] Customer vs. Member
[ ] Member vs. Member
[ ] Member vs. Customer
[ ] Customer vs. AP
[ ] AP vs. Customer
[ ] Member vs. Member & AP
[ ] Non-Member vs. Member
[ ] Other_____
[ ] Member vs. AP
[ ] AP vs. Member
[ ] AP vs. Member & AP

2. Change of party representation, if any?

_____

_____

3. Who did counsel/representative for claimant state that they want reflected on the Award as counsel/representative?

_____

_____

4. Who did counsel/representative for respondent state that they want reflected on the Award as counsel/representative?

_____

_____

5. Parties who did not appear, if any?

_____

_____

6. Parties challenging jurisdiction, if any?

_____

_____

7. Did a party have an expert witness testify? If yes, which party?

_____

_____

8. Hearing dates, with the time the hearing started and concluded, excluding panel deliberations:

_____

_____

9. Were any amendments made to the pleadings at the hearing? ☐ Yes ☐ No

_____

_____

(a) If an amendment was made to the pleadings was it oral or written?

☐ Oral ☐ Written

(b) If any amendments were made to the pleadings, please describe below (include amendments to the dollar amount of any claim): _____

_____

_____

_____

_____

_____

_____

_____

10. Did the parties make any substantive or procedural motions?

☐ Yes ☐ No

(a) If a motion was made, which party made the motion?

Claimant: _____ Respondent: _____

Claimant: _____ Respondent: _____

(b) If a motion was made, please describe the motion, the response, and the panel's ruling below:

_____

_____

_____

_____

_____

(c) If a motion for expungement was made, please see the “Expungement” section below.

11. Was any party’s final damage requests presented at the close of the hearing different from what were requested in their pleading requesting damages? *See the Hearing Script section T.*

☐ Yes ☐ No

(a) If yes, please identify the party and its final damage request below:_____

_____

_____

12. Did anything unusual occur at the hearing that the panel wishes to include in the award?

☐ Yes ☐ No

(a) If the answer to this question is yes, please describe below (please attach additional pages if necessary):

_____

_____

_____

_____

_____

_____

_____

_____

13. **Expungement**

Was expungement requested? ☐ Yes ☐ No

A. If yes, which party(ies) requested expungement? _____

*(If more than one party requested expungement, please provide the same information for each party seeking expungement.)

B. Was the expungement request made:

☐ In a pleading (i.e. Statement of Answer)?

☐ Orally at the hearing?

☐ In a Stipulated Agreement?

☐ In a motion?

C. If the order of expungement is issued **before January 26, 2009**, and the case was filed by a customer or is an intra-industry case that requests expungement of customer dispute information, the panel must make a Rule 2080 finding.

Note: The panel should require a brief evidentiary hearing to gather the information necessary to make an expungement finding. Please see "Rule 2080 Expungement Procedures."

1. Was there a hearing on the merits of the expungement request?
   ☐ Yes ☐ No

2. If yes, did the Panel conduct an in-person hearing or a telephonic hearing?

   ☐ In-person hearing ☐ Telephonic hearing

   (a) What issues and/or evidence were considered by the panel in granting the expungement? Please describe which party submissions the panel relied upon (You may attach additional pages if necessary):
   _____
   _____
   _____
   _____

3. If there was not a hearing on the merits of expungement (either in person or by telephone), what issues and/or evidence were considered by the panel in granting the expungement? Please describe which party submissions the panel relied upon: (Please attach additional pages if necessary): _____
   _____
   _____
   _____
   _____
   _____

4. Is the expungement request granted? ☐ Yes ☐ No

   (a) If expungement is granted, the panel must identify which of the Rule 2080 finding(s) it is making in order to grant the expungement request and provide additional finding(s) and rationale below (Please provide additional pages if necessary):

1) The claim, allegation, or information is factually impossible or clearly erroneous: _____

_____

_____

_____

2) The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds: _____

_____

_____

_____

_____

3) The claim, allegation, or information is false: _____

_____

_____

_____

D. If the order of expungement is issued **on or after January 26, 2009**, and the case was filed by a customer or is an intra-industry case that requests expungement of customer dispute information, the panel must make a Rule 2080 finding and comply with Rule 12805 or Rule 13805.

Note: The panel must hold a recorded hearing session (by telephone or in person) to decide the request for expungement. Please review Rules 12805 and 13805, for customer cases and industry cases respectively, for more information on these procedures.

1. Did the panel conduct either an in-person or a telephonic hearing to determine the request for expungement?

☐ In-person hearing ☐ Telephonic hearing

(a) What issues and/or evidence were considered by the panel in granting the expungement? Please describe which party submissions the panel relied upon (You may attach additional pages if necessary):

_____

_____

_____

_____

2. Did the parties reach a settlement in this case?

☐ Yes ☐ No

(a) If yes, did the panel review the settlement documents and consider the amount of payments made to any party and any other terms and conditions of settlement?_____

_____

_____

_____

3. Is the expungement request granted? ☐ Yes ☐ No

(a) If expungement is granted, the panel must identify which of the following Rule 2080 finding(s) it is making in order to grant the expungement request.

1) The claim, allegation, or information is factually impossible or clearly erroneous:

☐ Yes ☐ No

2) The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds:

☐ Yes ☐ No

3) The claim, allegation, or information is false:

☐ Yes ☐ No

(b) If the expungement is granted, the panel *must* provide a brief written explanation of the reason(s) for its finding that one or more Rule 2080 grounds for expungement applies to the facts of the case (Please provide additional pages if necessary):_____

_____

_____

_____

_____

E. For Intra-Industry Claims Only (Please review “Defamation Claims in Intra-Industry Disputes” below.)

1. If the claim is between a FINRA member firm and a current or former associated person, and the panel intends to order the expungement of information not related to a customer dispute from the Central Registration Depository (“CRD”), state whether the expungement order is based on the defamatory nature of the information, and if so, clearly state in the award that the “expungement order is based on the defamatory nature of the information in the CRD system.”

Expungement Rules 12805 and 13805 (Including Rule 2080)

The SEC has approved FINRA Dispute Resolution's new expungement rules. The new rules apply to any expungement order issued on or after January 26, 2009. The new rules are contained in the FINRA Codes of Arbitration Procedure for Customer and Industry Disputes, Rules 12805 and 13805 respectively.

The new rules establish procedures that arbitrators must follow when considering requests for expungement relief of customer dispute information from the CRD System under Conduct Rule 2080. These new procedures are designed to: (1) make sure that arbitrators have the opportunity to consider the facts that support or oppose a decision to grant expungement; and (2) to ensure that expungement occurs only when the arbitrators find and document one of the narrow grounds specified in Rule 2080.

Pursuant to the new rules, in order to grant expungement of customer dispute information under Rule 2080, the panel must:

(a) Hold a recorded hearing session (by telephone or in person) regarding the appropriateness of expungement. This paragraph will apply to cases administered under Rule 12800, the Simplified Arbitration procedures, even if a customer did not request a hearing on the merits.

(b) In cases involving settlements, review settlement documents and consider the amount of payments made to any party and any other terms and conditions of a settlement.

(c) Indicate in the arbitration award which of the Rule 2080 grounds for expungement serve(s) as the basis for its expungement order and provide a brief written explanation of the reason(s) for its finding that one or more Rule 2080 grounds for expungement applies to the facts of the case. Therefore, the arbitrators must make one of the following findings:

1. The claim, allegation, or information is factually impossible or clearly erroneous; or
2. The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; or
3. The claim, allegation, or information is false.

(d) Assess all forum fees for hearing sessions in which the sole topic is the determination of the appropriateness of expungement against the parties requesting expungement relief.

Rule 2080 requires that all directives to expunge customer dispute information from the CRD system be confirmed by or ordered by a court of competent jurisdiction. It also requires that FINRA members or associated persons name FINRA as an additional party in any court proceeding in which they seek an order to expunge customer dispute information or request confirmation of an award.

FINRA will generally oppose confirmation of the expungement portion of the arbitration award in most cases where it participates in the judicial proceeding.

These new rules do not affect FINRA's practice of permitting expungement, without judicial intervention, of information from the CRD system as directed by arbitrators in intra-industry arbitration awards that involve associated persons and firms based on the defamatory nature of the information ordered expunged.

For more information about expungement Rules 12805 and 13805, review Regulatory Notice 08-79.

Defamation Claims in Intra-Industry Disputes

Under existing CRD policy, FINRA will expunge information from the CRD system – without the need for judicial intervention – if the expungement directives contained in intra-industry awards that involve associated persons and firms are based on the defamatory nature of the information ordered expunged and do not involve any customer dispute information. Arbitrators must clearly state in the award that they are ordering expungement relief based on the defamatory nature of the information in the CRD system. Rule 2080 applies in intra-industry cases that request expungement of customer dispute information.

View Rule 2080 Frequently Asked Questions at the FINRA Web site at: http://www.finra.org/RegulatorySystems/CRD/FilingGuidance/p005224.

14. **Award:**

USE THE FOLLOWING PAGES TO ENSURE THAT ALL CLAIMS AND OTHER RELIEF REQUESTS HAVE BEEN DECIDED BY THE PANEL.

<u>Initial Claim</u>

_____ shall
[Party(ies)]

pay to _____

_____:
[Party(ies)]

a. Compensatory damages awarded, if any?

- On which claims for relief did you find the respondent(s) liable? Please provide the statutory, tort or common law bases for liability.

_____

_____

_____

- On which claims for relief did you find no liability?

_____

_____

_____

b. Punitive or RICO damages awarded, if any? _____

_____

- Authority for Punitive or RICO Damages (e.g., brief description of legal citation):

_____

_____

_____

_____

c. Is interest or the percentage of interest awarded, if any? _____

- Date interest on the award begins to accrue? _____
- Date interest on the award ceases to accrue? _____

d. Attorneys' Fees.

1) Did any party request attorneys' fees? If so, which party(ies)? _____

_____

2) Were any attorneys' fees requests granted or denied? Which party(ies)?

_____

_____

3) Authority for attorneys' fees (e.g., statute, contract): _____

_____

e. Costs awarded, if any? _____

_____

f. Other damages, costs, or fees awarded (e.g., witness fees): _____

_____

_____

_____

_____

_____

_____

_____

g. Specific performance granted, if any? Describe completely: _____

_____

_____

_____

_____

_____

_____

h. Injunctive relief granted, if any? Describe completely: _____

_____

_____

_____

_____

_____

_____

_____

_____

i. Is the award ***joint and several*** against two or more parties?

☐ Yes ☐ No

If yes, the award is joint and several against the following respondents: _____

_____

_____

_____

_____

_____

_____

_____

_____

j. If an explained decision is required, please include the explanation in the space provided below. (Please attach additional documents if necessary):

_____

_____

_____

_____

_____

_____

☐ Counterclaim/ ☐ Cross-Claim/ ☐ Third Party Claim (Please check the box for the appropriate claim that was filed. Please include the panel's decision/ruling for each additional Counterclaim, Cross-Claim, and/or Third Party Claim that was filed).

_____ shall
[Party(ies)]

pay to _____:
[Party(ies)]

a. Compensatory damages awarded, if any?

- On which claims for relief did you find the respondent(s) liable? Please provide the statutory, tort or common law bases for liability.

_____

_____

_____

- On which claims for relief did you find no liability?

_____

_____

_____

b. Punitive or RICO damages awarded, if any? _____

_____

- Authority for Punitive or RICO Damages (e.g., brief description of legal citation):

_____

_____

_____

_____

_____

_____

_____

c. Interest or the percentage of interest awarded, if any? _____

_____

- Date interest on the award begins to accrue? _____

_____

- Date interest on the award ceases to accrue? _____

_____

d. Attorneys' Fees.

1) Did any party request attorneys' fees? If so, which party(ies)? _____

_____

2) Were any attorneys' fees requests granted or denied? Which party(ies)?

_____

_____

3) Authority for attorneys' fees (e.g., statute, contract): _____

_____

e. Costs awarded, if any? _____

_____

f. Other damages, costs, or fees awarded (e.g., witness fees): _____

_____

_____

_____

_____

_____

g. Specific performance granted, if any? Describe completely: _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

h. Injunctive relief granted, if any? Describe completely: _____

_____

_____

_____

_____

_____

_____

_____

i. Is the award ***joint and several*** against two or more parties?

☐ Yes ☐ No

If yes, the award is joint and several against the following respondents: _____

_____

_____

_____

_____

j. If an explained decision is required, please include the explanation in the space provided below. (Please attach additional documents if necessary):

_____

_____

_____

_____

_____

_____

15. **Explained Decision Fees**

The Explained Decision Rule provides that the panel will allocate the cost of the additional $400 honorarium to the parties as part of the final award. Please indicate how this additional honorarium should be assessed:

Claimant #1 is assessed_____

Claimant #2 is assessed_____

Respondent #1 is assessed _____

Respondent #2 is assessed _____

16. **Forum Fees**:

Arbitrators, in their awards, shall determine the amount chargeable to the parties as forum fees and shall determine who shall pay such forum fees. Forum fees may be described as the direct costs of administering the arbitration proceeding. They consist of filing fees, hearing fees, fees for decisions rendered on discovery-related motions without a pre-hearing conference, and fees for decisions on contested motions requesting the issuance of a subpoena without a pre-hearing conference. Filing fees are designed to cover some of the actual costs incurred by FINRA Dispute Resolution from the initial filing of a claim up to the pre-hearing conference. Hearing session fees are designed to cover some of the actual costs of administering a hearing. Fees for decisions rendered on discovery-related motions on the papers, and for decisions on

contested motions requesting the issuance of a subpoena without a pre-hearing, are designed to cover payments made to arbitrators for these decisions.

Forum fees chargeable to the parties shall be assessed on a per hearing session basis, or for decisions rendered on discovery-related motions on the papers or contested motions for the issuance of a subpoena without a pre-hearing conference. A hearing session is any meeting among the parties and the panel that lasts four hours or less, including a pre-hearing conference with the panel. As a general rule, the aggregate chargeable for each hearing session *may equal but shall not exceed* the amount of the largest initial hearing deposit made by any party. ***For example***, if the largest initial hearing session deposit is $750, the panel may charge or assess up to $750 per hearing session. (If you decide to assess forum fees against a customer staff will inform you of the rule that applies.) The total amount of forum fees that a panel may assess is determined by multiplying the number of hearing sessions times the hearing deposit. ***For example***, if there were four hearing sessions and the largest initial hearing session deposit is $750, the panel may assess total forum fees up to four (4) times $750.

In addition, a panel may assess for Pre-hearing conferences held with the parties and the full panel or one arbitrator. In the ***above example***, if one Pre-hearing conference lasting one session in duration was conducted among the parties with the full panel, the panel may assess an additional amount up to $750. If one Pre-hearing conference lasting one session in duration was conducted among the parties with the Chairperson only, the panel may assess an additional amount up to $450.

Additionally, the panel may assess fees for decisions rendered on discovery-related motions on the papers. The panel may assess an additional amount of $200 per arbitrator for each arbitrator who participates in the decision on the discovery-related motion. The panel may also assess fees for decisions on contested motions requesting the issuance of a subpoena without a pre-hearing conference. The panel may assess $200 per arbitrator for each arbitrator who participates in the decision on the contested subpoena request. This honorarium is paid on a per case basis to each arbitrator who decides the contested subpoena request. Parties shall not be assessed more than $600 in fees per case for decisions rendered on contested subpoena requests without a pre-hearing conference.

The panel may assess forum fees among the parties in any fashion. In deciding how to assess forum fees among the parties, the panel might consider the following factors:

- Temporary waivers of filing fees or hearing session deposits granted because of financial hardship.

- Actions by any party that may have prolonged the length of the hearing.

- The legitimacy of arguments made or positions taken.

- Disruptions or time delays caused during hearing sessions.

- The ultimate merits of the case (i.e., who prevailed or substantially prevailed).

To calculate the total amount of forum fees the panel may assess in this arbitration, this office has provided you with the amount of the hearing session deposit for a Pre-hearing conference session and for a regular hearing session.

Please note: The panel may decide to allocate the fees for decisions rendered on discovery-related motions on the papers, and for decisions on contested motions requesting the issuance of a subpoena without a pre-hearing conference, in the same manner as the pre-hearing conference sessions and hearing sessions. If, however, the panel decides to allocate the fees in a different manner, please provide a list of each discovery-related motion and advise how the panel wishes to allocate the related fee. Please note that each arbitrator is only compensated $200 per case for a decision rendered on a contested motion requesting the issuance of a subpoena without a pre-hearing conference. Also, parties shall be assessed a maximum of $600 per case for decisions on contested motions requesting the issuance of a subpoena without a pre-hearing conference.

Calculation of Forum Fees:

__ Regular Hearing sessions x $_____ Hearing session deposit = $_____

plus __ Prehearing sessions with **three** arbitrators x $_____ Hearing session deposit = $_____

plus __ Prehearing sessions with **one** arbitrator x $_____ Hearing session deposit = $_____

plus___Decisions rendered on discovery-related motions with one arbitrator x $200.00

plus___Decisions rendered on discovery-related motions with two arbitrators x $400.00

plus___Decisions rendered on discovery-related motions with three arbitrators x $600.00

plus___Arbitrator(s) x $200 per case for decisions rendered on contested subpoena requests (maximum assessment of $600 per case)

Total Forum Fees = $_____

Provide below the specific parties against whom the forum fees are to be assessed and the specific dollar amounts.

Claimant(s) _____assessed $_____

_____ assessed $_____

Respondent(s) _____ assessed $_____

_____ assessed $_____

(a) Please indicate whether you wish to have the respondent(s) reimburse the claimant(s) for any claim-filing fee paid to FINRA Dispute Resolution.

☐ Yes ☐ No

(b) Please indicate whether forum fees are to be assessed ***jointly and severally*** against any of the parties. ☐ Yes ☐ No

If yes, please state below the parties to be assessed ***jointly and severally***.

_____

_____

_____

_____

17. **Injunctive Relief Fees**:

a. The Injunctive Relief Rule[1] provides that the increased arbitrator honoraria for the hearing on the request for permanent injunction should be assessed equally against the parties but that the arbitrators may reallocate this additional amount among the parties in the award. Please indicate how these additional honoraria should be assessed:

Claimant #1 is assessed_____

Claimant #2 is assessed_____

Respondent #1 is assessed _____

Respondent #2 is assessed _____

If the assessment is joint and several against any party, state below the parties against whom it is made (circle all that applies):

[1] Industry Code: Rule 13804; Old Code: Rule 10335

i. Claimants only
ii. Respondents only
iii. Claimants and Respondents

_____

_____

_____

b. The Injunctive Relief Rule also provides that the parties are jointly liable for the reasonable travel-related costs and expenses of an arbitrator who is required to travel to a hearing location other than the arbitrator's primary hearing location(s). The Rule further provides that the arbitrators may reallocate this expense. Please indicate how the expenses should be assessed.

Arbitrator _____,
traveled outside his or her assigned hearing location and incurred $ _____
in reasonable travel-related costs and expenses.

Arbitrator _____,
traveled outside his or her assigned hearing location and incurred $ _____
in reasonable travel-related costs and expenses.

Arbitrator _____,
traveled outside his or her assigned hearing location and incurred $ _____
in reasonable travel-related costs and expenses.

The parties are liable for those reasonable travel related costs and expenses as follows:

Claimant #1 is assessed _____

Claimant #2 is assessed _____

Respondent #1 is assessed _____

Respondent #2 is assessed _____

If the assessment is joint and several against any party, state below the parties against whom it is made (circle all that applies):
i. Claimants only
ii. Respondents only
iii. Claimants and Respondents

_____

_____

_____

c. Is a disciplinary referral appropriate in this case? ☐ Yes ☐ No

If a referral is appropriate, contact the staff assigned to the case for guidance and a copy of the Arbitrator Disciplinary Referral Form.

Thank you for your service in this matter. FINRA Dispute Resolution looks forward to working with you again in the future.