

Law Offices of Montgomery G. Griffin

Montgomery G. Griffin, SBN 243738

montyg@montgomerygriffin.com

620 Newport Center Drive, 11th Floor

Newport Beach, California 92660

Telephone: (949) 721-9781

Facsimile: (949) 721-8934

FILED

Superior Court of California

County of Los Angeles

05/26/2023

David W. Slayton, Executive Officer / Clerk of Court

By: A. Robledo Deputy

Attorneys for Petitioner Zhe Feng (Owen) Zhang

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

Zhe Feng (Owen) Zhang

CASE NO. 23STCP00628

Petitioner,

**~~[PROPOSED]~~ ORDER TO CONFIRM
ARBITRATION AWARD**

vs.

Edward Jones

Respondent.

**AGREED ORDER CONFIRMING AND ENTERING JUDGMENT UPON
ARBITRATION AWARD:**

This matter is before the Court on Petitioner Zhang's Petition to Confirm Arbitration Award. By this submission, Petitioner Mr. Zhang Moves for Entry of Agreed Order (the "Motion") requesting confirmation of a certain arbitration award pursuant to Code of Civil Procedure section 1286, and the Court being fully advised in the premises,

It is hereby **ORDERED**:

1. Petitioner's Motion is hereby granted;

2. The arbitration award dated December 29, 2022 in the matter known as the Financial Industry Regulatory Authority arbitration case of *Zhe Feng (Owen) Zhang v. Edward Jones* (FINRA Arbitration Case No. 21-02474), and attached hereto as **Exhibit A** is confirmed and entered as a Judgment upon arbitration award on the terms set forth therein.

1 3. The Case Management Conference set for June 28, 2023 at 8:30 a.m. in Department
2 28 is canceled.

3
4 **IT IS SO ORDERED**



A handwritten signature in black ink, appearing to read "Rupert A. Byrdsong".

Rupert A. Byrdsong / Judge

5
6 Dated: JUN 28 2023

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Judge of the Superior Court

Exhibit A

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Zhe Feng Zhang

Case Number: 21-02474

vs.

Respondent
Edward Jones

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.

This matter was decided by an all-public panel pursuant to Rule 13802 of the Code of Arbitration Procedure (“Code”).

REPRESENTATION OF PARTIES

For Claimant Zhe Feng Zhang: Montgomery G. Griffin, Esq., Law Offices of Montgomery G. Griffin, Newport Beach, California.

For Respondent Edward Jones: Elizabeth Lindh, Esq., and Teresa J. Thong, Esq., Keesal, Young & Logan, Long Beach, California.

CASE INFORMATION

Statement of Claim filed on or about: September 28, 2021.
First Amended Statement of Claim filed on or about: October 18, 2021.
Second Amended Statement of Claim filed on or about: February 16, 2022.
Claimant signed the Submission Agreement: September 28, 2021.

Statement of Answer filed by Respondent on or about: December 23, 2021.
Answer to Second Amended Statement of Claim filed by Respondent on or about: March 11, 2022.
Respondent signed the Submission Agreement: December 23, 2021.

CASE SUMMARY

In the Statement of Claim, as amended, Claimant asserted the following causes of action: equity; violations of industry standards; expungement/modification; defamation; defamation per se; libel; wrongful termination; negligence; conversion; violation of California's Unfair Competition Law; disparate treatment; employment discrimination on the basis of race; tortious interference with a contractual or business relationship; violations of industry rules and standards; failure to supervise; and intentional infliction of emotional distress. The causes of action relate to Claimant's termination from Respondent's employment.

Unless specifically admitted in the Statements of Answer, as amended, Respondent denied the allegations made in the Statements of Claim, as amended, and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested:

1. Presumed damages for Respondent's defamation for (a) the U5 "reason for termination" ("discharged") and "termination explanation" filing regarding Claimant's separation of employment from Respondent, (b) the amended U5 filing that included a false "forgery" allegation now known as Occurrence Number 2072335, and (c) the defamatory remarks made to former clients of Claimant;
2. Actual damages for Respondent's defamation for (a) the U5 "reason for termination" ("discharged") and "termination explanation" filing regarding Claimant's separation of employment from Respondent, (b) the amended U5 filing that included a false "forgery" allegation now known as Occurrence Number 2072335, and (c) the defamatory remarks made to former clients of Claimant;
3. Punitive damages for Respondent's defamation for (a) the U5 "reason for termination" ("discharged") and "termination explanation" filing regarding Claimant's separation of employment from Respondent, (b) the amended U5 filing that included a false "forgery" allegation now known as Occurrence Number 2072335, and (c) the defamatory remarks made to former clients of Claimant;
4. An award directing/recommending removal or modification of Claimant's U5 termination disclosure such that it is no longer defamatory (e.g., to be changed to "terminated without cause on a pretextual basis"), pursuant to NASD Notice to Members 99-09;
5. An award directing/recommending expungement of the disclosure on Claimant's Central Registration Depository ("CRD") records (identified as Occurrence Number 2072335) that "The client alleges her signature was forged on an account transfer by a previous FA," because the claim, allegation, or information is factually impossible or clearly erroneous, making expungement proper under FINRA Rule 2080(b)(1)(A), Claimant was not involved in the alleged investment-related sales practice violation, making expungement proper under FINRA Rule 2080(b)(1)(B), and/or any allegations, claims, or information of wrongdoing against Claimant were false, making expungement proper under FINRA Rule 2080(b)(1)(C);
6. Compensatory damages (including the value of permanently lost business and unpaid insurance commissions) of not less than \$500,000.00, according to proof at hearing;
7. Restitution under California's Unfair Competition Law;
8. General damages, including Claimant's emotional distress, according to proof at hearing;
9. Attorneys' fees and costs incurred by Claimant in this arbitration proceeding to the extent permitted by contract, statute or rule of law (including fees incurred for purposes of

- defending against Respondent's wrongful threats and the FINRA investigation);
10. Costs; and
 11. Any other relief the Arbitrators deem just and proper.

In the Statement of Answer, as amended, Respondent requested:

1. Claimant take nothing by way of his Second Amended Statement of Claim;
2. Judgment be entered in favor of Respondent and against Claimant on all claims;
3. Respondent be awarded the costs of suit incurred herein; and
4. Respondent be awarded such other and further relief as the Panel may deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On September 14, 2022, Claimant filed a notice of partial dismissal, advising that the parties have resolved all claims except for Claimant's request for expungement. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim, as amended, except for Claimant's expungement request.

On October 18, 2022, Claimant advised that the customer in Occurrence Number 2072335 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing.

On November 18, 2022, Claimant filed an email from the Customer as an exhibit. The Customer stated that she received the documentation related to Claimant's expungement request, and she noted that she would neither participate in the expungement hearing nor oppose Claimant's expungement request.

The Panel conducted a recorded hearing by videoconference on November 18, 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 Panel found that the Customer had notice of the expungement request and hearing.

The Panel reviewed Claimant's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

The Panel noted that the dispute related to Occurrence Number 2072335 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report and testimony provided at the expungement hearing.

The Award in this matter may be executed in counterpart copies.

AWARD

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

1. The Panel recommends the expungement of all references to Occurrence Number 2072335 from registration records maintained by the CRD for Claimant Zhe Feng Zhang (CRD Number 6334674) with the understanding that, pursuant to Notice to Members 04-16, Claimant Zhe Feng Zhang 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 Panel has made the following Rule 2080 affirmative findings of fact:

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

The claim, allegation, or information is false.

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

After Claimant's termination from Respondent, a former customer complained that he had forged her name in an attempt to transfer her business to his then current affiliation, which he denied. Neither Claimant nor the Panel ever saw the allegedly forged document. Respondent investigated and dropped the matter with no further action. The Customer was notified of the expungement proceeding and elected in writing not to participate. The Customer was not involved in a settlement of any kind.

The Panel also recommends the expungement of the Termination Explanation in Section 3 of Zhe Feng Zhang's (CRD Number 6334674) Form U5 filed by Edward Jones (CRD Number 250) on November 29, 2019 and maintained by the CRD. The Reason for Termination shall remain the same. The Termination Explanation shall be deleted in its entirety and replaced with the following language: "Concerns that registered representative did not sufficiently know his customer." This directive shall apply to all references to the Termination Explanation.

The Panel further recommends that the response to the "Allegation(s)" question (Question 4) of the Termination DRP related to Occurrence Number 2054292 maintained by the CRD for Zhe Feng Zhang be deleted in its entirety and replaced with the following language: "Concerns that registered representative did not sufficiently know his customer." This directive shall apply to all references to the "Allegation(s)" question.

The Panel further recommends that the response to the “Describe briefly the nature of the internal review” question (Question 3) of the Internal Review DRP related to Occurrence Number 2054291 maintained by the CRD for Zhe Feng Zhang be deleted in its entirety and replaced with the following language: “Concerns that registered representative did not sufficiently know his customer.” This directive shall apply to all references to the “Describe briefly the nature of the internal review” question.

The above recommendations are made with the understanding that the registration records are not automatically amended. Zhe Feng Zhang must obtain confirmation of this Award from a court of competent jurisdiction, before the CRD will execute the expungement directive, and must forward a copy of the Court Order to FINRA’s Credentialing, Registration, Education and Disclosure Department for the amendments to be incorporated into the Registration Records.

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	= \$ 1,740.00
--------------------------	---------------

**The filing fee is made up of a non-refundable and a refundable portion.*

Claimant Zhe Feng Zhang is assessed a \$200.00 filing fee in accordance with Code of Arbitration Procedure Rule 13802. The balance of the non-refundable portion of the filing fee, in the amount of \$240.00, is assessed to Respondent Edward Jones.

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 is assessed the following:

Member Surcharge	= \$ 2,625.00
Member Process Fee	= \$ 5,225.00

Postponement Fee

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

January 9 and 30, 2023, postponement requested by parties	= \$ WAIVED
---	-------------

Hearing Session Fees and Assessments

The Panel 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 the Panel @ \$1,325.00/session	= \$ 1,325.00
Pre-Hearing Conferences: March 23, 2022	1 session

One (1) hearing session on expungement request @ \$1,325.00/session	= \$	1,325.00
Hearing: November 18, 2022 1 session		

Total Hearing Session Fees	= \$	2,650.00
----------------------------	------	----------

The Panel has assessed \$1,325.00 of the hearing session fees to Claimant.

The Panel has assessed \$1,325.00 of the hearing session fees to Edward Jones in accordance with Rule 13802 of the Code.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATION PANEL

Kirtley M. Thiesmeyer	-	Public Arbitrator, Presiding Chairperson
Jonathan D Gereige	-	Public Arbitrator
Steve S. Baghoomian	-	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.

Concurring Arbitrators' Signatures

Kirtley M. Thiesmeyer

Kirtley M. Thiesmeyer
Public Arbitrator, Presiding Chairperson

12/23/2022

Signature Date

Jonathan D Gereige

Jonathan D Gereige
Public Arbitrator

12/29/2022

Signature Date

Steve S. Baghoomian

Steve S. Baghoomian
Public Arbitrator

12/22/2022

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.

December 29, 2022

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

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Orange. I declare that I am over the age of eighteen (18) and not a party to this action. My business address is 620 Newport Center Drive, 11th Floor, Newport Beach, California 92660.

On May 24, 2023, I served the following document described as:

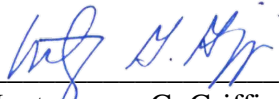
ORDER TO CONFIRM ARBITRATION AWARD

on the interested parties in this action by placing the true copies thereof enclosed in sealed envelopes as follows:

PLEASE SEE ATTACHED SERVICE LIST

- (X) **By U.S. Mail:** I deposited such envelopes in the mail at Hermosa Beach, California. The envelopes were mailed with postage thereon fully prepaid.
- () **By Personal Service:** I caused such envelope to be delivered by hand to the individuals at the addresses listed.
- () **By Overnight Courier:** I caused the above-referenced document(s) to be delivered to an overnight courier service (FedEx Overnight), for delivery to the above addressee(s).
- (X) **By E-mail:** I caused the above-referenced document(s) to be transmitted to the below-named person at the e-mail address specified thereon.
- (X) (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

EXECUTED on May 24, 2023, at Newport Beach, California.



Montgomery G. Griffin

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SERVICE LIST

Re: Zhe Feng (Owen) Zhang v. Edward Jones

ATTORNEY FOR RESPONDENT:

Elizabeth H. Lindh, Esq.
Keesal, Young & Logan
400 Oceangate, Suite 1400
Long Beach, California 90802
elizabeth.lindh@kyl.com