

**AWARD**  
**FINRA DISPUTE RESOLUTION**

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CASE # [REDACTED]  
[REDACTED] (Claimant) vs. Ameriprise Financial Services, Inc. (Respondent)

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**REPRESENTATION OF PARTIES:**

For Claimant [REDACTED]: Dochter Kennedy, MBA, J.D., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent Ameriprise Financial Services, Inc.: Sydney H. Crowder, Esq., Ameriprise Financial Services, Inc. Minneapolis, Minnesota

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**NATURE OF DISPUTE:** Associated Person vs. Member

Statement of Claim filed on or about: August 10, 2016.

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**CASE SUMMARY:** Claimant asserted a claim seeking expungement of customer complaint occurrence numbers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] ("Underlying Claims") from her Central Registration Depository ("CRD") records.

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**RELIEF REQUESTED:** In the Statement of Claim, Claimant requested:

1. Expungement of occurrence numbers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] from her CRD record pursuant to FINRA Rule 2080(b)(1)(A) as the claim, allegation or information is factually impossible or clearly erroneous;
  2. Expungement of occurrence number [REDACTED] from her CRD record pursuant to FINRA Rule 2080(b)(1)(B) finding Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds;
  3. Expungement of occurrence numbers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] from her CRD record pursuant to FINRA Rule 2080(b)(1)(C) as the claim, allegation or information is false;
  4. An award of damages in the amount of \$1.00 from Respondent for its part in contributing to Claimant's injury; and
  5. Any and all other relief that the Arbitrator deems just and equitable.
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**AWARD:** The undersigned Arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows:

- 1) The Arbitrator recommends the expungement of all references to occurrence numbers [REDACTED], [REDACTED], [REDACTED], and [REDACTED], from registration records maintained by the CRD, for Claimant [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, Claimant [REDACTED] 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 specific Rule 2080 affirmative findings of fact below for each of the occurrence numbers.

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

Seven complaints were filed by customers against the Claimant for very similar issues. Each customer indicated that they were not informed when they purchased variable annuities from the Claimant, including surrender fees. In addition, the C family, the customer in the underlying claim of occurrence numbers [REDACTED] and [REDACTED] also alleged that the sale of their mutual funds by the Claimant were unauthorized. The customer in the underlying claim of occurrence number [REDACTED], Ms. L, alleged that the product she purchased was not suitable for her situation.

These complaints were filed from October 2005 to January 2009. The two separate allegations filed by the C family involve the same complaint. The Claimant worked for Respondent from July 2003 to October 2007.

- a) Occurrence number [REDACTED] (in which “Ms. S” is the customer in the underlying claim): 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 false.

The evidence provided clearly indicates that Ms. S was informed of the various fees, including surrender fees, regarding the variable annuity she purchased. The fees and surrender schedule of fees is included within the Variable Annuity Instructions and Application document. Respondent investigated the allegation at the time it was filed and concluded that information regarding fees including a surrender fee schedule was properly disclosed prior to the actual purchase of the product.

- b) Occurrence number [REDACTED] (in which “Mr. W” is the customer in the underlying claim): Pursuant to Rule 13805 of the 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.

This complaint is similar to the one filed by Ms. S and involves fees associated with a Variable Universal Life (“VUL”) insurance policy. Respondent investigated the complaint and concluded all charges associated with the purchase of the VUL policy were disclosed and included in the application approved and signed by Mr. W. Mr. W confirmed that his contact with Respondent was simply made as an inquiry, not a complaint, as noted in Claimant’s exhibit 1.

- c) Occurrence number [REDACTED] (in which “Mr. P” is the customer in the underlying claim): 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.

Mr. P, an attorney, purchased an Ameriprise Annuity. Later he alleged that the purchase was unauthorized. Respondent investigated the complaint and concluded that the allegations were unjustified and that Mr. P had signed and approved the purchase contract, disclosures, fee schedule and surrender charges. Although Respondent informed Mr. P of their findings, he did not pursue the matter further. The Arbitrator reviewed Claimant’s exhibits 8 through 12 and concluded that this allegation is false.

- d) Occurrence number [REDACTED] (in which “Ms. N” is the customer in the underlying claim): Pursuant to Rule 13805 of the 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.

This is a similar complaint to those filed by Ms. S and Mr. W alleging Claimant did not disclose surrender fees. The product application and purchase agreement fully disclose the surrender fee schedule. Respondent investigated the allegation after it was filed and concluded that all charges including surrender charges were fully disclosed for the sale of the VUL policy purchased by Ms. N. The Arbitrator reviewed exhibits 13, 16, and 17 regarding this complaint.

- 2) Occurrence numbers [REDACTED] and [REDACTED] (in which “the C family” are the customers in the underlying claims): These two separate complaints regarding the C family are included in Claimant’s CRD record. The Arbitrator denies the request for expungement of these two complaints; however, as both involve the same initial allegations, Respondent is ordered to consolidate the complaints into one Disclosure Reporting Page (“DRP”) so that they are reported as one complaint in Claimant’s CRD record.

The C family purchased a non-qualified variable annuity in early 2007. They allege that the annuity was opened without their instruction by “their advisors,” and, that the annuity was funded from unauthorized mutual fund sales. The C family asked Respondent to reimburse them for tax consequences related to the sale of their mutual funds. Claimant left the employment of Respondent in October 2007. Respondent investigated the C family’s allegations and concluded “the clients claims to be founded.” Subsequently the second complaint was filed and a settlement agreement reached between the C family and Respondent. The Arbitrator was not able to review the settlement agreement because copies are no longer available per document retention policies of Respondent.

Claimant testified that the C family authorized the purchase of the non-qualified variable annuities including the sale of their mutual funds. Exhibit 14 was provided by Claimant which is a response to inquiries from FINRA regarding this matter. In

addition, the Arbitrator reviewed Claimant's exhibits 6 and 7 regarding account statements for the C family.

Although Claimant testified that the C family approved the purchase of the non-qualified variable annuity and authorized the sale of their mutual funds, an investigation by Respondent concluded that the allegations to be "founded" which resulted in a settlement agreement. Facts supporting a recommendation for expungement per FINRA Rule 2080 were not proven. It is recommended that the complaints involving the C family be consolidated by Respondent into one complaint.

- 3) Occurrence number [REDACTED] (in which "Ms. L" is the customer in the underlying claim): The Arbitrator denies the request for expungement of this occurrence, finding the following:

Ms. L opened a VUL insurance policy in fall of 2003. Claimant was new with the firm and testified that the policy was sold essentially by her District Manager at the time since meetings with clients and new advisors were held jointly with the District Manager. The sale of the VUL policy was only listed under Claimant's name. Five years later Ms. L filed a complaint that the product was unsuitable for her needs. Respondent investigated and concluded that the VUL was unsuitable and settled with Ms. L for \$6,405.44. Claimant was no longer working for Respondent at the time and was not part of the settlement. Neither Claimant nor Respondent could provide a copy of the settlement agreement for review as part of this case. Respondent indicated during the April 11, 2017 hearing that agreements dating back this far were no longer available. The Arbitrator reviewed Claimant's statement regarding this complaint as part of the record, exhibit 15.

This particular allegation is different than most of the other allegations since it involves suitability. Claimant's request for expungement of this complaint, although with some merit since it was proposed with her District Manager, does not fall within the various categories of FINRA Rule 2080; and, therefore an order supporting expungement is not recommended for this particular complaint.

- 4) All other relief requests are denied.

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OTHER ISSUES: The Arbitrator acknowledges that he has read the pleadings and other materials filed by the parties.

In its Statement of Answer and during the expungement hearings, Respondent advised it had no objection to the requests for expungement.

On January 6, 2017, and April 11, 2017, the Arbitrator conducted recorded telephonic hearings so the parties could present evidence on Claimant's requests for expungement. The Arbitrator determined all customers that filed the Underlying Claims were properly noticed with the Statement of Claim and each hearing, and they were given the opportunity to provide testimony verbally or in writing, and that no testimony was received either verbally or in writing from any of the customers.

The Arbitrator determined that none of the customer complaints being expunged resolved by way of settlement. The Arbitrator also noted that Claimant did not previously file a claim requesting expungement of the same disclosures from the CRD.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: discussions that occurred during the telephonic expungement hearings held on January 6, 2017 and April 11, 2017, Statement of Claim and review of exhibits 117 provided by Claimant, Statement of Answer by Respondent, and testimony provided by Claimant during the April 11, 2017 hearing. The Arbitrator also reviewed Claimant's BrokerCheck® report.

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OTHER FEES: Respondent has paid to FINRA Office of Dispute Resolution the \$150.00 Member Surcharge previously invoiced.

Filing Fees

FINRA Office of Dispute Resolution assessed a filing fee\* for each claim:

Initial Claim Filing Fee	= \$50.00
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*\*The filing fee is made up of a non-refundable and a refundable portion.*

Adjournment Fees

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

February 7, 2017, adjournment by parties	= WAIVED
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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, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) hearing sessions on expungement request @ \$50.00/session	= \$100.00
Hearing Dates: January 6, 2017	1 session
April 11, 2017	1 session

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Total Hearing Session Fees	= \$100.00
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The Arbitrator has assessed \$100.00 of the hearing session fees to Claimant.

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

**ARBITRATOR**

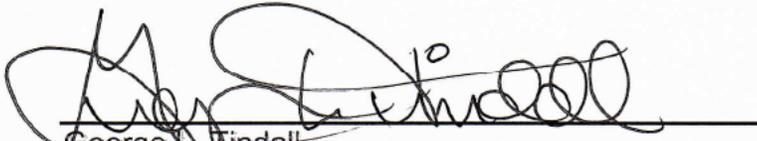
George L. Tindall

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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

  
George L. Tindall  
Sole Public Arbitrator

6/21/2017  
Signature Date

June 21, 2017  
Date of Service (For FINRA-DR office use only)