

AWARD

FINRA Office of DISPUTE RESOLUTION

CASE #: [REDACTED]

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

REPRESENTATION OF PARTIES:

For Claimant [REDACTED]: Michael O’Gara, Esq., AdvisorLaw LLC, Broomfield, Colorado.

For Respondent Ameriprise Financial Services, Inc.: Howard M. Klausmeier, Esq., Ameriprise Financial Legal Affairs, Troy, Michigan.

NATURE OF DISPUTE: Associated Person vs. Member

Statement of Claim filed on or about: December 22, 2016.

CASE SUMMARY: Claimant asserted a claim seeking expungement of customer dispute occurrence numbers [REDACTED], [REDACTED] and [REDACTED] (“Underlying Claims”) from his Central Registration Depository (“CRD”) records.

In the Statement of Answer, Respondent advised that it does not oppose Claimant’s request for expungement as long as Claimant is able to establish an appropriate factual record at the hearing.

RELIEF REQUESTED:

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Claims from his CRD record pursuant to FINRA Rule 2080(b)(1)(A) finding the claim, allegation or information is factually impossible or clearly erroneous;
2. Expungement of occurrence number [REDACTED] from his CRD record pursuant to FINRA Rule 2080(b)(1)(B) finding the Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds;
3. Expungement of the Underlying Claims from his CRD record pursuant to FINRA Rule 2080(b)(1)(C) finding the claim, allegation or information is false.
4. An award of damages in the amount of \$1.00 for Respondent’s part in contributing to Claimant’s injury; and
5. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. In the event Claimant is able to bear his burden of proof, a recommendation for expungement of the Underlying Clams from his CRD record;
 2. A denial of any and all requested damages against Respondent; and
 3. An assessment of any and all costs, fees and the member surcharge relating to the matter against Claimant.
-

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 the Underlying Claims, namely, occurrence numbers [REDACTED], [REDACTED] and [REDACTED] from Claimant [REDACTED] (CRD# [REDACTED]) registration records maintained by the CRD, 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.

- a. Occurrence number [REDACTED]: 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;

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

The claim, allegation, or information is false.

For occurrence number [REDACTED], the Arbitrator has made the above Rule 2080 finding based on the following reasons:

Claimant had no contact with the underlying customer, Ms. W, as the underlying investments were made before Ms. W relocated to Arizona.

- b. Occurrence number [REDACTED]: 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.

- c. Occurrence number [REDACTED]: Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative findings:

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

For occurrence numbers [REDACTED] and [REDACTED], the Arbitrator has made the above Rule 2080 finding based on the following reasons:

Claimant's recommendations were suitable and there was no basis in fact for the customers' complaints.

In addition to Rule 2080, the Arbitration has recommended expungement of the Underlying Claims due to the defamatory nature of the information in the CRD system.

2. Claimant is liable for and shall pay to Respondent \$150.00 to reimburse Respondent for the Member Surcharge fee previously paid to FINRA Office of Dispute Resolution.
3. Any and all claims for relief not specifically addressed herein are denied.

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

On June 05, 2017, Claimant provided notice that the customers in the Underlying Claims had been served with the Statement of Claim, Initial Pre-Hearing Conference Order, and Case Information Sheet including the date of the expungement hearing.

On June 16 2017, Ms. W, underlying customer for occurrence number [REDACTED], filed a response to Claimant's expungement request clarifying some discrepancies and stating that she did "not recall ever having a conversation with Mr. Rao."

The Arbitrator conducted a recorded telephonic hearing on July 12, 2017 so the parties could present oral argument and evidence on Claimant's request for expungement. Underlying customer Ms. W attended the expungement hearing. The remaining customers in the Underlying Claims did not appear at the expungement hearing.

During the expungement hearing, Claimant waived the request for \$1.00 in damages.

The Arbitrator noted that Claimant did not previously file a claim requesting expungement of the Underlying Claims.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report, Claimant's motion and supporting exhibits, Statement of Claim, Statement of Answer, Claimant's oral testimony, underlying customer Ms. W's oral testimony and written response to the expungement request.

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

FINRA Dispute Resolution assessed a filing fee* for each claim:
Initial Claim Filing Fee =\$ 50.00

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

Hearing Session Fees and Assessment

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), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$50.00/session = \$50.00
Pre-hearing conference: May 03, 2017 1 session

One (1) Hearing session on expungement request @ \$50.00/session = \$50.00
Hearing Date: July 12, 2017 1 session

Total Hearing Session Fees = \$100.00

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

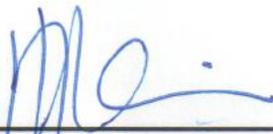
Howard R. Gaines

-

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



Howard R. Gaines
Sole Public Arbitrator

7-24-17

Signature Date

July 25, 2017
Date of Service (For FINRA-ODR office use only)