

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Merrill Lynch, Pierce, Fenner & Smith Inc.

Hearing Site: Newark, New Jersey

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████: Dochter Kennedy, Esq., AdvisorLaw LLC,
Broomfield, Colorado.

For Respondent Merrill Lynch, Pierce, Fenner & Smith Inc.: Josh Jones, Esq., Bressler,
Amery & Ross, P.C., Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: April 12, 2017.
Claimant signed the Submission Agreement: April 12, 2017.

Statement of Answer filed by Respondents on or about: June 1, 2017.
Respondent signed the Submission Agreement: June 1, 2017.

CASE SUMMARY

Claimant asserted the following cause of action: expungement.

Respondent did not oppose the request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested compensatory damages in the amount of \$1.00 and expungement of his CRD records.

At the close of the hearing, Claimant withdrew his request for compensatory damages.

In the Statement of Answer Respondent requested denial of the request for compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Arbitrator conducted a recorded telephonic hearing on August 1, 2017 so the parties could present oral argument and evidence on [REDACTED] request for expungement.

The Arbitrator reviewed the BrokerCheck® Report for [REDACTED].

The Arbitrator noted that [REDACTED] did not previously file a claim requesting expungement of the same disclosure in the CRD.

By letter dated July 17, 2017, Claimant notified the underlying customer of the expungement request and his right to participate in the expungement hearing and he provided the customer with a copy of the Statement of Claim. The customer did not contest the expungement request.

In recommending expungement the Arbitrator relied upon the following documentary or other evidence: pleadings and exhibits.

AWARD

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

1. The Arbitrator recommends the expungement of all references to Occurrence [REDACTED] filed on January 19, 2000 and Occurrence [REDACTED] filed on September 8, 2006 from registration records maintained by the Central Registration Depository ("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, 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.

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

The Claimant seeks expungement of two outstanding complaints on his CRD. Occurrence [REDACTED] filed on January 19, 2000 and Occurrence [REDACTED] filed on September 8, 2006. The second complaint appears to be a duplicate of the first complaint and, according to counsel for Respondent, appeared on Claimant's CRD even though no new complaint was ever filed by a customer.

The first complaint, as well as the duplicate, is predicated upon the allegation by the customer that Claimant made unauthorized trades. Testimony by Claimant is that the customer requested the trade upon the recommendation of her sister, a certified Financial Advisor.

Claimant states that he was not familiar with the company whose stock the customer sought to purchase, that Respondent did not have any research on the company and that he therefore would not recommend the purchase. The customer insisted upon following her sister's recommendation and directed the Claimant to make the trade. When the value of the stock purchased by the customer declined, the customer filed a complaint alleging an unauthorized trade. Claimant testified that the customer not only approved the trade but also insisted that it be made in spite of Claimant's recommendation not to make the purchase. Claimant also testified that a confirmation of the trade was forwarded to the customer and the trade appeared on her monthly statement.

The trade which formed the basis for the customer's complaint was one of a series of trades that were recommended by the customer's sister and were carried out by Claimant upon the customer's overruling of Claimant's objections to such trades. Based upon the foregoing testimony, I have concluded that the initial complaint filed in January 2000 was false and clearly erroneous and should be expunged from Claimant's CRD.

With respect to the second complaint which appears on Claimant's CRD in September 2006, the testimony by Claimant is that this is a duplication of the earlier complaint of January 2000. Since the January 2000 complaint should be expunged from Claimant's CRD because it is false and clearly erroneous, a similar disposition of the September 2006 duplicate complaint should be made on the grounds that it, too, is false and clearly erroneous and it should be expunged from Claimant's CRD. Moreover, since the complaint of September 2006 is a duplicate of the earlier complaint, its expungement can also be supported by a finding that it is factually impossible.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

FINRA Office of 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.*

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, Merrill Lynch, Pierce, Fenner & Smith, Inc., is assessed the following:

Member Surcharge	=\$ 150.00
------------------	------------

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:

One (1) pre-hearing session with a single arbitrator @ \$450.00/session	=\$ 50.00
Pre-hearing conference: July 17, 2017	1 session

One (1) hearing session on expungement request @ \$450.00/session	=\$ 50.00
Hearing Date: August 1, 2017	1 session

Total Hearing Session Fees	=\$100.00
----------------------------	-----------

The Arbitrator has assessed the \$100.00 hearing session fees to Claimant.

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

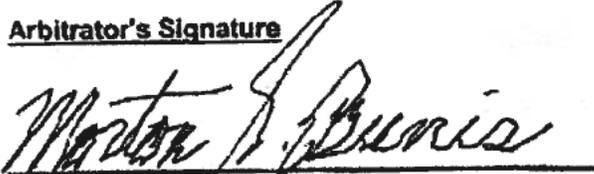
ARBITRATOR

Morton S. Bunis

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



Morton S. Bunis
Sole Public Arbitrator

8-6-17
Signature Date

August 9, 2017

Date of Service (For FINRA Office of Dispute Resolution office use only)