

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

NYLife Securities LLC

Hearing Site: Washington, D.C.

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

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

For Respondent NYLife Securities LLC: Jeffrey A. Sturgeon, Esq., Morgan, Lewis & Bockius LLP, Philadelphia, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on or about: January 24, 2017.

████████████████████ signed the Submission Agreement: January 24, 2017.

Statement of Answer filed by Respondent on or about: March 31, 2017.

NYLife Securities LLC signed the Submission Agreement: May 1, 2017.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the cause of action of inaccurate reporting on his Central Registration Depository ("CRD") record. The cause of action relates to two customer complaints, Occurrence No. ██████████ and Occurrence No. ██████████, which were recorded by Respondent on Claimant's CRD record.

In the Statement of Answer, Respondent denied that it owes any damages to Claimant and that anything it reported on Claimant's CRD is defamatory. Respondent also stated that it takes no position with respect to the merits for Claimant's request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested \$1.00 in compensatory damages, expungement of all references to Occurrence No. ██████████ and Occurrence No. ██████████ from his CRD record, and any and all other relief deemed just and equitable by the Arbitrator.

In the Statement of Answer, Respondent requested that the Arbitrator assess all fees against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about June 8, 2017, the Arbitrator ordered Claimant's counsel to provide a copy of the Statement of Claim and notice of hearing in this arbitration to the underlying customers that filed the complaints. On or about June 14, 2017, Claimant filed with FINRA Office of Dispute Resolution proof of service of the Statement of Claim to the underlying customers in the underlying complaints, and advised the customers of their right to participate in the expungement hearing scheduled for August 24, 2017.

The Arbitrator conducted a recorded telephonic hearing on August 24, 2017, so the parties could present oral argument and evidence on Claimant's request for expungement. Respondent did participate in the expungement hearing and took no position with respect to Claimant's request for expungement. The customers in the underlying complaints did not participate in the expungement hearing.

The Arbitrator reviewed the BrokerCheck® Report for Claimant and the settlement documents in Occurrence No. [REDACTED], considered the amount of payments made to any party, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement in Occurrence No. [REDACTED] was not conditioned on the customer not opposing the request for expungement; that Claimant did not contribute to the settlement amount; and the settlement merely offset the customer's losses, despite these losses not being caused by Claimant or Respondent.

The Arbitrator noted that Claimant did not previously file a claim requesting expungement of the same disclosures in the CRD.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings; the evidence and testimony presented at the recorded telephonic expungement hearing; Exhibit A to the Answer- Customer Complaint Occurrence [REDACTED]; Exhibit 8 to the Statement of Claim- Customer Complaint Occurrence [REDACTED]; Exhibit 9 to the Statement of Claim- UPS Shipping Document; and Exhibit 10 to the Statement of Claim- Settlement documents in Occurrence [REDACTED].

The Arbitrator has provided an explanation of her decision in this award. The explanation is for the information of the parties only and is not precedential in nature.

AWARD

After considering the pleadings, the testimony and evidence presented at the recorded telephonic 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 No. [REDACTED] and Occurrence No. [REDACTED] from registration records maintained by the CRD, for Claimant (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, Claimant 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 (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:

With respect to Occurrence No. [REDACTED], the customer alleged the life insurance was not suitable and that he could not afford it. The claim is clearly erroneous and false because the customer could afford the premiums and it was a suitable investment. The arbitrator found that the customer could afford his monthly premiums because of his yearly income and net worth according to his client profile. Therefore, the claim that he could not afford the premium was both clearly erroneous and false.

The customer's purchase of the life insurance was suitable given his stated intention to use the insurance to pay off his sizeable real estate debts if he died, and his high risk tolerance. Therefore, the claim that the life insurance was not a suitable was both clearly erroneous and false.

With respect to Occurrence No. [REDACTED], the customer alleged that Claimant did not follow her instructions requesting the immediate roll over of her IRA that she held with T. Rowe Price. This claim is clearly erroneous and false because as soon as the customer made this request (on Friday afternoon September 26, 2008), the Claimant processed this request and sent the documentation to T. Rowe Price the very next business day (on Monday September 29, 2008). Any actions that the Claimant could have taken related to the roll-over by a different company (T. Rowe Price) were taken, as requested by the customer, and with all due haste. Therefore, the claim that Claimant did not follow the customer's instructions and that Claimant's delay caused her financial losses is both clearly erroneous and false.

2. Any and all claims for relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, 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
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**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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge	=\$150.00
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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(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: June 1, 2017	1 session

One (1) hearing session on expungement request @ \$50.00/session	=\$ 50.00
Hearing Date: August 24, 2017	1 session

Total Hearing Session Fees	=\$100.00
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The Arbitrator has assessed the entire \$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

Olivia Milbank Farrar

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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



Olivia Milbank Farrar
Sole Public Arbitrator



Signature Date

September 28, 2017

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