

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 ██████████: Docthor Kennedy, Esq., AdvisorLaw LLC, Broomfield, Colorado.

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

CASE INFORMATION

Statement of Claim filed on or about: May 4, 2017.

Claimant signed the Submission Agreement: May 3, 2017.

Statement of Answer filed by Respondent on or about: June 26, 2017.

Respondent signed the Submission Agreement: June 20, 2017.

CASE SUMMARY

Claimant asserted the following cause of action: expungement of customer complaints from his CRD records.

In the Statement of Answer, Respondent denied any wrongdoing but did not oppose Claimant's request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers ██████████, ██████████, ██████████, ██████████, ██████████ from his CRD records, compensatory damages in the amount of \$1.00, and for any other relief as deemed just and equitable.

In the Statement of Answer, Respondent requested that the request for compensatory damages be denied:

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 October 17, 2017 so that the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and did not contest the request for expungement.

On September 11, 2017, Claimant notified the customers in the underlying complaints of his request for expungement. The customers did not oppose the request or appear at the expungement hearing.

The Arbitrator finds that the customers did not desire to participate in the expungement hearing and that a decision on the merits of Claimant's request can be entered.

The Arbitrator reviewed the BrokerCheck® Report for Claimant and the settlement documents related to Occurrence Number [REDACTED], considered the amount of payments made to the customer, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the customer not opposing the request for expungement. The Arbitrator noted that Claimant contributed to the settlement amount because it was made to a close family member to make him whole.

The Arbitrator noted that Claimant did not previously request expungement of the same disclosures in the CRD.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck Report, Claimant's Statement of Claim and the attached exhibits, Respondent's Answer, Claimant's 15 exhibits and his testimony.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, 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 Numbers [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] from the 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 complaints made by the customers were closed after Respondent investigated and denied liability. No further actions were taken by the customers. The only exception was a settlement made by the Respondent and the Claimant with the customer for business, economic, and emotional reasons, not that the claim was substantiated. All the complaints were made as a result of fluctuations in the market. The returns did not meet the customers' expectations.

2. Any and all claims for relief not specifically addressed herein, including compensatory damages, are denied.

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 events giving rise to the dispute. Accordingly, as a party, Respondent 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 @ \$50.00/session		= \$ 50.00
Pre-hearing conference: September 6, 2017	1 session	
One (1) hearing session on expungement request @ \$50.00/session		= \$ 50.00
Hearing Date: October 17, 2017	1 session	

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

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

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

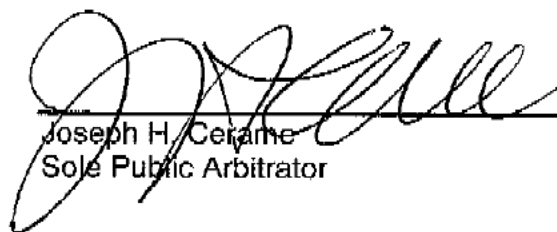
ARBITRATOR

Joseph H. Cerame

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



Joseph H. Cerame
Sole Public Arbitrator



Signature Date

October 30, 2017
Date of Service (For FINRA Office of Dispute Resolution office use only)