

AWARD

FINRA Office of DISPUTE RESOLUTION

CASE #: [REDACTED]

[REDACTED] (Claimant) vs. Larson Financial Securities, LLC (Respondent)

REPRESENTATION OF PARTIES:

For [REDACTED]: Docthor Kennedy, MBA, J.D., and Armin Sarabi, Esq., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent Larson Financial Securities, LLC: Kristen Kinney, ADO, Larson Financial Securities, LLC, St. Louis, Missouri.

NATURE OF DISPUTE: Associated Person vs. Member

Statement of Claim filed on: May 2, 2017.

Amended Statement of Claim filed on: June 27, 2017.

Respondent did not file a Statement of Answer and did not sign the Submission Agreement.

CASE SUMMARY: Claimant requested expungement of a civil litigation, being occurrence number [REDACTED] ("Underlying Claim") from his Central Registration Depository ("CRD") record.

RELIEF REQUESTED:

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Claim from his 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 the Underlying Claim from his CRD record pursuant to FINRA Rule 2080(b)(1)(B) as Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds;
3. Expungement of the Underlying Claim from his CRD record pursuant to FINRA Rule 2080(b)(1)(C) finding the claim, allegation or information is false;
4. An award of compensatory damages in the amount of \$1.00 from Respondent; and,
5. Any and all other relief that the Arbitrator deems just and equitable.

In the Amended Statement of Claim, Claimant removed his request for expungement of the Underlying Claim from his CRD record pursuant to FINRA Rule 2080(b)(1)(B). All other relief requests remained the same.

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

Respondent did not file with FINRA Office of Dispute Resolution a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of

Arbitration Procedure (“Code”) and is bound by the determination of the Arbitrator on all issues submitted.

On July 24, 2017, Respondent submitted a notice that Respondent did not intend to participate in the expungement hearing.

On August 16, 2017, Claimant provided notice that the customers in the Underlying Claim, Ms. C, Mr. Z and Mr. A (the “Customers”) had been served with the Statement of Claim and notice that: “Although you are not required, nor under a duty to do so, you may participate in this hearing or submit written documentation. Please contact us if you have any questions or would like additional information about this case.” The Arbitrator reviewed the documents provided and determined that the Customers had been given notice of the Statement of Claim and the hearing. No response or request for additional information was received from the Customers.

On August 22, 2017, Claimant provided an affidavit of service that the Customers had been served with the Statement of Claim.

The Arbitrator conducted a recorded telephonic hearing on December 5, 2017 so the parties could present oral argument and evidence on Claimant’s request for expungement. The Customers and Respondent did not appear at the expungement hearing.

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

The Arbitrator notes that Respondent settled the Underlying Claim with the Customers on June 29, 2016 for \$250,000.00. Respondent chose to settle for that amount because that was the projected cost if Respondent chose to litigate the matter. The Arbitrator reviewed the settlement documents in connection with the Underlying Claim and considered the amount of payments made to any party and any other terms and conditions of settlement. The Arbitrator determined that Claimant was not involved in settlement discussions nor did he contribute to the settlement, and that the settlement agreement was not conditioned upon the Customers’ agreement not to oppose expungement.

The Arbitrator noted that Claimant did not previously request expungement of the Underlying Complaint.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant’s oral testimony and Claimant’s Exhibits 1 through 25 as follows:

1. Exhibit 1, Claimant’s BrokerCheck[®] Report and CRD Individual Snapshot Report
2. Exhibit 2, Variable Life Disclosure for Ms. C, signed April 8, 2011
3. Exhibit 3, Variable Life Checklist for Ms. C, signed April 8, 2011
4. Exhibit 4, Client Account Form for Ms. C dated May 6, 2011
5. Exhibit 5, VUL Short Form Declaration of Insurability for Ms. C, signed May 19, 2011
6. Exhibit 6, VUL Illustration Assumptions for Ms. C, signed May 19, 2011

7. Exhibit 7, VUL Application Supplement for Ms. C, signed May 19, 2011
8. Exhibit 8, VUL Contract Receipt for Ms. C, signed May 19, 2011
9. Exhibit 9, VUL Policy Payment and Voided Check for Ms. C dated May 20, 2011
10. Exhibit 10, VUL Request for Pre- Authorization Payment Plan for Ms. C
11. Exhibit 11, VUL Contract File Cover Sheet — Closed Business for Ms. C dated May 26, 2011
12. Exhibit 12, Settlement Agreement and Mutual General Release for Ms. C, Mr. A and Mr. Z, dated June 29, 2016
13. Exhibit 13, Nationwide Application for Mr. A, signed June 7, 2011
14. Exhibit 14, Client Account Form for Mr. A dated July 26, 2011
15. Exhibit 15, VL Disclosure for Mr. A dated July 26, 2011
16. Exhibit 16, VL Checklist for Mr. A dated July 26, 2011
17. Exhibit 17, Respondent's VUL Policy File for Mr. A dated August 23, 2011
18. Exhibit 18, Respondent's Email to Mr. A re: Account Verification dated August 17, 2012
19. Exhibit 19, VUL Account Verification Letter for Mr. A dated August 17, 2012
20. Exhibit 20, VUL Illustration for Mr. A dated January 8, 2015
21. Exhibit 21, Respondent's Policy Data Pages for Mr. A
22. Exhibit 22, Account Agreement for Mr. Z dated January 24, 2011
23. Exhibit 23, Client Account Form for Mr. Z dated February 3, 2011
24. Exhibit 24, VUL Illustration for Mr. Z dated February 22, 2011
25. Exhibit 25, Respondent's VUL Policy File for Mr. Z dated March 23, 2011

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 Claim, namely occurrence number [REDACTED] from Claimant [REDACTED] (CRD# [REDACTED]) registration records maintained by the CRD, with the understanding that pursuant to Notice to Members 04-16, [REDACTED] 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 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.

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

In accordance with Rule 2080(b)(1)(A) the claim, allegation or information is factually impossible or clearly erroneous because not only was the Claimant not the senior advisor on the account, but the evidence in the Underlying Claim showed that it was factually impossible for the allegations made to have been true. Claimant never had any substantive contacts or communications with the Customers. Claimant's only role was to observe the senior advisors and to be a "fly on the wall." It is factually impossible for Claimant to have acted in any way that would amount to negligence, breach of duty, and fraud. Furthermore, any benefit ensured to Claimant was limited to a nominal percentage of the entire amount in fees from the services and products provided to the Customers by Respondent. This nominal amount was earned in fair exchange and Claimant was in no way unjustly enriched.

In accordance with Rule 2080(b)(1)(B) the registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds because Claimant was only a junior advisor who was enrolled in a fellowship program at Respondent. As such, Claimant's role was only to observe the senior advisors on each account. Further, Claimant was prohibited from giving any investment advice or being involved in any investment-related sales practice, and any attempt to do so would have been cause for reprimand or termination. Some of the accounts did not list Claimant as an advisor at all, while others listed him along with the senior advisors who actually managed the account. Claimant also left his position at Respondent nearly two years prior to the Underlying Claim having been filed, and was not named in the civil litigation bringing rise to this disclosure on Claimant's BrokerCheck® Report.

In accordance with Rule 2080(b)(1)(C) the claim, allegation or information is false because not only was Claimant not the senior advisor on the account, but evidence in the Underlying Claim showed that the senior advisors acted appropriately in the Underlying Claim and the Customers were sophisticated and high net worth individuals who received all the proper disclosures and documentation relating to the investment.

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

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: August 21, 2017 1 session	
One (1) Hearing session on expungement request @ \$50.00/session	= \$50.00
Hearing Date: December 5, 2017 1 session	
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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

Robert F. Saint-Aubin

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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



Robert F. Saint-Aubin
Sole Public Arbitrator

12/6-17

Signature Date

December 18, 2017
Date of Service (For FINRA-ODR office use only)