

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

██████████

Case Number: ██████████

vs.

Respondents

LaSalle Financial Services, Inc. and
Banc of America Investment Services, Inc.

Hearing Site: Chicago, Illinois

Nature of the Dispute: Associated Person vs. Members

REPRESENTATION OF PARTIES

For Claimant ██████████ (“Claimant”): Owen Harnett, Esq., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondents LaSalle Financial Services, Inc. (“LaSalle”) and Banc of America Investment Services, Inc. (“Banc of America”), hereinafter collectively referred to as “Respondents”: Sarah Yates, Esq., Bressler, Amery & Ross, P.C., Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: May 9, 2017.

Claimant signed the Submission Agreement: May 9, 2017.

Statement of Answer filed jointly by Respondents on or about: June 29, 2017.

LaSalle signed the Submission Agreement: June 27, 2017.

Banc of America signed the Submission Agreement: June 27, 2017.

CASE SUMMARY

Claimant asserted the following cause of action: expungement. Claimant requested expungement of customer complaints, Occurrence Numbers ██████████ and ██████████, from his records maintained by the Central Registration Depository (“CRD”). Claimant alleged that the alleged misrepresentations by the customers regarding a variable annuity purchased in August 2005 and a mutual fund purchased in April 2008 are false.

In the Statement of Answer, Respondents did not oppose Claimant’s requests for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

Compensatory Damages	\$1.00
Other Non-Monetary Relief	Expungement

In the Statement of Answer, Respondents objected to Claimant's request for \$1.00 in compensatory damages, as he did not allege that he suffered harm or damages as a result of the complaints filed against him.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about August 15, 2017, Claimant made a Request for Arbitration with a Telephonic or Video Expungement Hearing. No response was filed. In the Initial Pre-Hearing Conference Scheduling Order dated August 29, 2017, the Arbitrator granted the request for a telephonic expungement. The Arbitrator ordered Claimant to send notices of hearing to the customers related to Occurrence Numbers [REDACTED] and [REDACTED]. The Order reads in pertinent part as follows: "The notices shall include the date and time of the telephonic hearing and detailed instructions on how to gain participation in the conference. If notices are sent by mail, it shall be by certified mail, return receipt. Respondent will use its best efforts to promptly secure a copy of the Settlement Agreement in Occurrence Number [REDACTED] and deliver it to Claimant."

On or about August 16, 2017, Claimant sent via certified mail to Customers P.M. and P.F. the Statement of Claim and notice of the requests for expungement. On or about August 23, 2017, Claimant filed an Affidavit of Service.

On or about August 28, 2017, Claimant served Discovery Requests on Respondents related to Occurrence Numbers [REDACTED] and [REDACTED].

On January 4, 2018, Claimant filed Exhibits # 2-7 for the expungement hearing.

On or about January 8, 2018, Claimant sent via priority express mail notice to Customers P.M. and P.F. with the date of the expungement hearing and the opportunity to appear and/or submit written documentation.

The Arbitrator conducted a recorded, telephonic hearing on January 11, 2018. The Arbitrator determined that there was not enough advance notice given to the customers of the expungement hearing. The Arbitrator postponed the expungement hearing due to inadequate notice. The expungement hearing was rescheduled for February 28, 2018.

On or about January 22, 2018, Claimant sent via certified mail notice to Customers P.M. and P.F. with the date of the expungement hearing and the opportunity to appear and/or submit written documentation. On or about January 23, 2018, Claimant filed an Affidavit of Service.

The Arbitrator conducted a recorded, telephonic hearing on February 28, 2018, so the parties could present oral argument and evidence on [REDACTED] requests for expungement. Respondents' counsel did participate in the expungement hearing and did not contest the requests for expungement. The customers did not respond to the letters, nor did they participate in the telephonic expungement hearing. At the hearing, Claimant orally withdrew his request for compensatory damages in the amount of one dollar (\$1.00).

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

With regard to the customer complaint for Occurrence Number [REDACTED], LaSalle denied the claim after finding it to be without merit. The respective client did not pursue her complaint further in arbitration or litigation.

After investigating the second customer complaint for Occurrence Number [REDACTED], Respondents settled the matter in order to avoid the costs and uncertainty of litigation.

The Arbitrator reviewed the Settlement Agreement and General Release for Occurrence Number [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 was not conditioned on the customer not opposing the request for expungement. The Arbitrator also noted that [REDACTED] was not a party to the settlement and did not contribute to the settlement amount.

The Arbitrator noted that [REDACTED] 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: [REDACTED]'s BrokerCheck® Report and his testimony cited below in the Award section.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the sole issue of expungement submitted for determination as follows:

1. [REDACTED]'s request for expungement of Occurrence Number [REDACTED] from his CRD records is denied.
2. The Arbitrator recommends the expungement of Occurrence Number [REDACTED] from the registration records maintained by the 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 of Arbitration Procedure (“Code”), the Arbitrator has made the following Rule 2080 affirmative finding of fact:

- The claim, allegation, or information is false.

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

The allegation that Customer P.M., an experienced investor, did not know she was buying a variable annuity with a seven-year surrender schedule is false. Claimant testified under oath that he thoroughly explained the annuity, including the early surrender penalties, before purchase and several times after, and that Customer P.M. received disclosure documents for the annuity. When Customer P.M. withdrew the money early for a business opportunity, Claimant again reminded her of the penalties. Claimant’s employer investigated the claim and rejected it. Customer P.M. did not pursue the matter further nor respond to multiple notices regarding this hearing, so Claimant’s testimony is uncontroverted.

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 firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as parties, LaSalle Financial Services, Inc. and Banc of America Investment Services, Inc. are each 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: August 29, 2017	1 session

Two (2) hearing sessions on expungement request @ \$50.00/session	= \$ 100.00
Hearing Dates: January 11, 2018	1 session
February 28, 2018	1 session
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Total Hearing Session Fees	= \$ 150.00

The Arbitrator has assessed \$150.00 of the hearing session fees to Claimant.

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

ARBITRATOR

James A. Murphy

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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

/s/ James A. Murphy

James A. Murphy
Sole Public Arbitrator

March 16, 2018

Signature Date

March 16, 2018

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

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Hearing Dates: January 11, 2018	1 session
February 28, 2018	1 session
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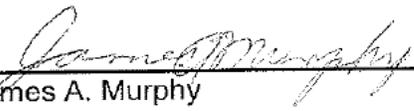
ARBITRATOR

James A. Murphy

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



James A. Murphy
Sole Public Arbitrator

3/16/2018

Signature Date

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