

AWARD

FINRA Office of DISPUTE RESOLUTION

CASE #: [REDACTED]

[REDACTED] am (Claimant) vs. United Planners' Financial Services of America A Limited Partner (Respondent)

REPRESENTATION OF PARTIES:

For Claimant [REDACTED]: Owen Harnett, J.D., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent United Planners' Financial Services of America A Limited Partner: Douglas C. Hall, Vice President of Compliance, United Planners' Financial Services of America A Limited Partner, Scottsdale, Arizona.

NATURE OF DISPUTE: Associated Person vs. Member

Statement of Claim filed on or about: September 19, 2017.

Respondent filed a Statement of Answer on or about: November 9, 2017.

CASE SUMMARY: Claimant asserted a claim seeking expungement of one customer complaint, occurrence number [REDACTED], ("Underlying Claim") from his Central Registration Depository ("CRD") record.

In its Statement of Answer, Respondent advised that it does not contest the present action and stipulates to the expungement of the Underlying Claim from Claimant's CRD.

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)(C) as the claim, allegation, or information is false;
 3. Compensatory damages in the amount of \$1.00 from Respondent; and
 4. Any and all other relief that the Arbitrator deems just and equitable.
-

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

On January 29, 2018, Claimant provided notice that the Statement of Claim and notice of the expungement hearing was served on the customer in the Underlying Claim ("Customer"). On the same day, Claimant filed an Affidavit of Service signed by Claimant's counsel advising that the Customer had been served with the Statement of Claim.

The Arbitrator conducted a recorded telephonic hearing on February 22, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing and did not contest the request for expungement. The Arbitrator found that Respondent's representative, Mr. Douglas C. Hall, had notice of the hearing and chose not to participate. Mr. Hall, both at the Initial Pre-Hearing Conference and in Respondent's Statement of Answer, stated that Respondent did not contest but rather stipulated to Claimant's Request for Expungement due to the fact that Claimant acted within firm policy and industry standards and, furthermore, the facts surrounding this dispute were investigated and denied by Respondent.

The Arbitrator found that the Customer was provided with the Statement of Claim and informed of his right to participate in the hearing and chose not to participate.

At the hearing, Claimant withdrew his request for \$1.00 in compensatory damages from Respondent.

The Arbitrator reviewed the BrokerCheck® Report for Claimant. The Arbitrator noted that there was no settlement in the Underlying Claim.

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

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony and the arguments found in the Statement of Claim both of which were found to be credible. Weight was also given to Respondent's stance on the expungement request, as well as to the fact that no formal complaint or action was pursued in the courts or with FINRA.

The parties present at the hearing have agreed that a handwritten, signed Award may be entered.

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, occurrence number [REDACTED], from 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 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:

No actual formal complaint was filed in the Underlying Claim. Rather, the Customer sent a letter to the State of Utah in which he asked the trade be voided and the money he had invested returned to him. The request for rescission as a type of relief was unreasonable, and the Customer's letter contained no specifics or details as to the nature of the dispute.

The dispute is erroneous in that the Customer had no basis to request his money back. He was fully informed of all aspects of the subject variable annuity both through repeated conversations with Claimant and by way of prospectuses and forms he signed which acknowledged the same.

Though suitability was not alleged in the letter, the Arbitrator notes that the investment was compatible with the Customer's risk profile, income, liquid net worth and total net worth. As stated earlier, Respondent investigated and denied the "claim." Any detail that would suggest that the Customer had a reasonable right to have his money returned would be erroneous and false.

In conclusion, expungement is recommended in this case as the necessary standards of FINRA Rule 2080(b)(1)(A) and (b)(1)(C) in all or in part were met. Therefore, to have the information remain on Claimant's CRD record serves no meaningful investor protection or regulatory value.

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

OTHER 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
--------------------------	------------

*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

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: January 9, 2018 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$50.00
Hearing Date: February 22, 2018 1 session

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

Michael Lancaster Garcia

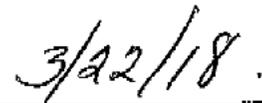
Sole Public Arbitrator

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



Michael Lancaster Garcia
Sole Public Arbitrator



Signature Date

March 23, 2018

Date of Service (For FINRA-ODR office use only)