

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondents

LPL Financial, LLC and
Next Financial Group, Inc.

Hearing Site: Houston, Texas

Nature of the Dispute: Associated Person vs. Members

REPRESENTATION OF PARTIES

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

For Respondent LPL Financial, LLC (“LPL”): Jon D. Kaplon, Esq., LPL Financial LLC, Boston, Massachusetts.

For Respondent Next Financial Group, Inc. (“NFG”): John T. Unger, Esq., Next Financial Group, Inc., Houston, Texas.

CASE INFORMATION

Statement of Claim filed on or about: July 10, 2017.

Claimant signed the Submission Agreement: July 10, 2017.

Statement of Answer filed by LPL on or about: September 6, 2017.

LPL signed the Submission Agreement: July 24, 2017.

Statement of Answer filed by NFG on or about: August 21, 2017.

NFG signed the Submission Agreement: August 21, 2017.

CASE SUMMARY

Claimant asserted the following cause of action: expungement. The cause of action related to Claimant’s allegation that a settlement was reached with customers in Occurrence # ██████████ (“Customers”) pertaining to their ING variable annuity after they filed an arbitration (“Underlying Complaint”), and that all references to the Underlying Complaint should be expunged from Claimant’s registration records maintained by the Central Registration Depository (“CRD”). Claimant asserted that the ING variable annuity was sold to the Customers by JJM, another broker, prior to JJM asking Claimant to assist the Customers with a managed brokerage account.

In its Statement of Answer, LPL did not oppose Claimant's request for expungement and denied any allegation of wrongdoing.

In its Statement of Answer, NFG did not oppose Claimant's request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

Compensatory Damages	\$1.00
Other Monetary Relief	Unspecified
Other Non-Monetary Relief	Expungement

In its Statement of Answer, LPL requested that Claimant's request for an award of damages be denied in its entirety, and that all costs, forum fees, and other charges relating to this case be assessed to Claimant.

In its Statement of Answer, NFG requested that Claimant's request for award of damages be denied in its entirety, and that Claimant be assessed with all forum fees, costs, and other charges relating to his case.

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 31, 2017, Claimant filed Proof of Service on the Customers.

On or about December 14, 2017, Claimant filed a Follow Up Service Letter to the Customers.

The Arbitrator conducted a recorded telephonic hearing on February 20, 2018, so the parties could present oral argument and evidence on Claimant's request for expungement.

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

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

The Customers did not participate in the expungement hearing and did not contest the request for expungement.

The Arbitrator reviewed Claimant's BrokerCheck® Report and the settlement documents, considered the amount of payments made to any party, and considered other relevant terms and conditions of the settlement. The Arbitrator found that the settlement was not conditioned on the Customers in the Underlying Complaint not opposing the request for expungement. The Arbitrator found that the settlement agreement in the Underlying Complaint was between the Customers and NFG, did not include Claimant, and Claimant did not contribute to the settlement.

In recommending expungement the Arbitrator relied upon the following documentary or other evidence: pages 7-26 of Exhibit 2 of the Statement of Claim, Exhibit 4 of the Statement of Claim, Exhibits 15 and 16 of Claimant's Expungement Hearing Exhibits, and Exhibits 18-22 of Claimant's Expungement Hearing Exhibits.

The Arbitrator found that Exhibit 16, the Statement of Claim from the Underlying Complaint, makes no allegations against Claimant and does not include him as a party.

The Arbitrator found that the Underlying Complaint did not relate to investments sold by Claimant, about which the Customers never complained.

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

At the hearing, Claimant only pursued his claim for expungement. Claimant withdrew all claims for relief, including compensatory damages, on the record at the hearing.

AWARD

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

1. The Arbitrator recommends the expungement of all references to Occurrence # [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, 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 findings based on the following reasons:

[REDACTED] did not sell the securities which were the basis of the Customers' complaint against NFG. [REDACTED] became aware

of the suspicious activities which led to the Customers' complaint when consulted by the Customers concerning an investment sold to them by JJM prior to ██████████ employment by NFG. After ██████████ ██████████ received requests for advice from other Customers concerning investments which were made prior to his employment by NFG, ██████████ reported his suspicions to FINRA through the Whistleblower Hotline. ██████████ subsequently informed the compliance officers of NFG and further investigations ensued. JJM, the principal of NFG, was ultimately indicted and convicted of crimes and was sentenced to two 20-year prison sentences.

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
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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, LPL Financial, LLC and Next Financial Group, Inc. are each assessed the following:

LPL Financial, LLC

Member Surcharge	= \$ 150.00
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Next Financial Group, Inc.

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, 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 with a single arbitrator @ \$50.00/session	= \$ 50.00
Pre-hearing conference: November 6, 2017 1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: February 20, 2018 1 session	

Total Hearing Session Fees	= \$ 100.00
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The Arbitrator has assessed the \$100.00 of hearing session fees to ██████████
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All balances are payable to FINRA Office of Dispute Resolution and are due upon receipt.

ARBITRATOR

Allan R. Lazor

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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/ Allan R. Lazor

Allan R. Lazor
Sole Public Arbitrator

04/08/2018

Signature Date

04/09/2018

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

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

ARBITRATOR

Allan R. Lazor

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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



Allan R. Lazor
Sole Public Arbitrator

April 8, 2018
Signature Date

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