

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

██████████

Case Number: 18-00234

vs.

Respondent

Raymond James Financial Services, Inc.

Hearing Site: Newark, New Jersey

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ Eric Litow, AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent Raymond James Financial Services, Inc.: Robert M. Rudnicki, Esq. and Brandy Pikus, Esq., Raymond James Financial, Inc., St. Petersburg, Florida.

CASE INFORMATION

Statement of Claim filed on or about: January 19, 2018.

██████████ signed the Submission Agreement: January 19, 2018.

Statement of Answer filed by Respondent on or about: January 25, 2018.

Raymond James Financial Services, Inc. signed the Submission Agreement: January 25, 2018.

CASE SUMMARY

Claimant asserted the following cause of action: expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. expungement of the occurrence number ██████████ from his CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the claims, allegations, or information are factually impossible or clearly erroneous;
2. expungement of the occurrence number ██████████ from his CRD records pursuant to FINRA Rule 2080(b)(1)(B), as he was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds;

3. expungement of the occurrence number [REDACTED] from his CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claims, allegations, or information are false;
4. damages in the amount of \$1.00 from the Respondent; and
5. any and all other relief that the Arbitrator deems just and equitable.

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

At the close of the hearing, Claimant withdrew his request for compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about May 22, 2018, Claimant provided FINRA Dispute Resolution with proof that he notified the customer related to occurrence number [REDACTED] of the expungement request and of his right to participate and testify at the expungement hearing, and he provided the customer with a copy of the Statement of Claim.

The Arbitrator conducted a recorded telephonic expungement hearing on June 7, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

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

The Arbitrator reviewed the BrokerCheck® Report for [REDACTED] and the settlement documents, considered the amount of payments made to the customer in the underlying complaint, 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] did not contribute to the settlement amount.

In recommending expungement the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim, Respondent's Statement of Answer, Claimant's BrokerCheck® Report, the Settlement Agreement related to occurrence [REDACTED], correspondence from Raymond James Financial Services, Inc., the customer's monthly statements, and the evidence and testimony presented at the expungement hearing.

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

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the telephonic 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 number [REDACTED] from registration records maintained by the Central Registration Depository ("CRD"), for [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, [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:

This petition for expungement arises from an allegation asserted by a customer against Claimant [REDACTED] (CRD No. [REDACTED]). This matter is the only reportable item on Claimant's BrokerCheck Report.

Rule 13805(c) of the FINRA Code of Arbitration Procedure for Customer Disputes requires that a Panel identify and explain which of the FINRA Rule 2080 grounds for expungement serve as the Panel's basis for rendering an award in which expungement is directed. Pursuant to Rule 2080, the Panel must find that the claim, allegation or information is factually impossible, clearly erroneous, or false. See FINRA Rule 2080 (b)(1)(A) and (C). For the reasons set forth below, the Arbitrator determined that the expungement of the Customer matter is appropriate insofar as the allegations are factually impossible, clearly erroneous and false. In addition, Claimant was not involved in any transaction(s) with Customer and did not engage in any sales practice violation.

The Panel heard the testimony of Claimant [REDACTED] and reviewed all of the exhibits submitted by Claimant (C-1 through C-7), all of which were admitted into evidence. The Settlement Agreement with the customer and Claimant's current BrokerCheck Report were among the documents admitted into evidence and reviewed.

There is clear and convincing evidence that Claimant was not the customer's Financial Advisor and did not have any involvement with the transactions that formed the basis of the customer's complaint. It is clear from the customer's monthly statements and from the investigation performed by the brokerage firm (Respondent Raymond James Financial Services, Inc.) that Claimant was not involved with the alleged conduct at issue and that the customer's complaint, regardless of its merit, related to the conduct of Claimant's father, [REDACTED], not Claimant. Claimant did not supervise his father and did not have any responsibility for the customer's account. Moreover, Claimant did not receive any commissions or other compensation in connection with the customer's account.

The customer settled his claims prior to filing a Statement of Claim for arbitration. Claimant did not contribute to the settlement with the customer. Based upon all of the foregoing, the Panel determines that there is clear and convincing evidence that the customer's claim against Claimant is factually impossible, clearly erroneous and false.

The customer was served with a copy of the Statement of Claim and spoke with Claimant's counsel. The customer informed Claimant's counsel that he did not desire to testify in this proceeding. Respondent Raymond James Financial Services, Inc. did not oppose Claimant's request for expungement and informed FINRA (in the Answer to the Statement of Claim) that it would not attend any hearings concerning the request for expungement.

2. Any and all claims for relief not specifically addressed herein 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
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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 firm that employed the associated person at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Raymond James Financial Services, Inc., is 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, 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: April 19, 2018		1 session
One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing Date: June 7, 2018		1 session
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Total Hearing Session Fees	= \$	100.00

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

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

ARBITRATOR

Louis H. Miron

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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



Louis H. Miron
Sole Public Arbitrator

6-26-18

Signature Date

JUNE 28, 2018

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