

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant(s)

██████████

Case Number: ██████████

vs.

Respondent(s)

Next Financial Group, Inc.

Hearing Site: Phoenix, Arizona

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ ("Claimant"): Erica Harris, Esq., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent Next Financial Group, Inc. ("Respondent"): John T. Unger, Esq., NEXT Financial Group, Inc., Houston, Texas.

CASE INFORMATION

Statement of Claim filed on: March 15, 2018.

Claimant signed the Submission Agreement: March 15, 2018.

Statement of Answer filed by Respondent on: May 1, 2018.

Respondent signed the Submission Agreement: April 30, 2018.

CASE SUMMARY

Claimant requested expungement of reference to a customer complaint, occurrence number ██████████ ("Underlying Claim") from his Central Registration Depository ("CRD") record.

In the Statement of Answer, Respondent advised that while it does not oppose Claimant's request for expungement and does not anticipate appearing any further in the case or attending any hearing session, it denies any wrongdoing alleged by Claimant and requests any award of damages be denied.

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) finding the claim, allegation or information is false.
3. An award of 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 CONSIDERED AND DECIDED

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

On June 19, 2018, Claimant provided a copy of his notice to the customer in the Underlying Claim ("Customer") regarding the Statement of Claim and notice of the expungement hearing. On June 25, 2018, Claimant provided an Affidavit of Service signed by Claimant's counsel advising that the Customer had been served with the Statement of Claim. The Arbitrator determined that the Customer was informed about the expungement request and that she did not file a reply.

On June 24, 2018, Respondent filed a notice of non-participation in the expungement hearing.

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

The Arbitrator conducted a recorded telephonic hearing on July 24, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement. Respondent did not appear at the expungement hearing as previously advised. The Customer did not appear at the expungement hearing.

The Arbitrator reviewed Claimant's BrokerCheck® Report.

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

The Arbitrator reviewed the settlement documents from 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 did not contribute to the settlement, and that the settlement agreement was not conditioned upon the Customer's agreement not to oppose expungement.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Statement of Claim with exhibits; Claimant's submission of expungement hearing exhibits; Claimant's oral testimony; Claimant's BrokerCheck® Report.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the 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 the Underlying Claim, occurrence number [REDACTED] from Claimant [REDACTED]'s (CRD# [REDACTED]) registration records maintained by the CRD, 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 Underlying Claim about unsuitability and failure to follow instructions are not supported by the evidence.

The evidence, both written and oral, demonstrates that the Customer was fully informed about the features of the annuity that she invested in and that she understood that it was a long-term investment intended to be held until maturity.

Further, the features of the subject annuity met the investment criteria that Claimant had listed on the Customer's application.

There appears to have been no financial damage to the Customer, inasmuch as she still held the investment when Claimant lost contact with her in 2008.

Respondent, in its compliance review, advised the Customer that there were no grounds for her complaint.

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

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: June 18, 2018 1 session

One (1) Hearing session on expungement request @ \$50.00/session = \$50.00
Hearing Date: July 24, 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

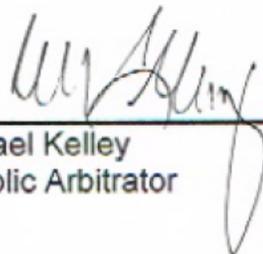
W. Michael Kelley

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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



W. Michael Kelley
Sole Public Arbitrator



Signature Date

July 31, 2018

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