

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant(s)

██████████

Case Number: ██████████

vs.

Respondent(s)

Banc of America Investment Services Inc.

Hearing Site: Phoenix, Arizona

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ ("Claimant"): Dochter Kennedy, MBA, J.D., AdvisorLaw LLC, Broomfield, Colorado and Armin Sarabi, Esq., HLBS Law, Westminster, Colorado.

For Respondent Banc of America Investment Services Inc. ("Respondent"): Sarah K. Yates, Esq., Bressler, Amery & Ross, P.C., Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on: January 31, 2018.

Claimant signed the Submission Agreement: January 31, 2018.

Statement of Answer filed by Respondent on: March 30, 2018.

Respondent signed the Submission Agreement: March 30, 2018.

CASE SUMMARY

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

In the Statement of Answer, Respondent advised that while it takes no position as to Claimant's request for expungement, it objects to Claimant's request for compensatory damages and asserted various affirmative and other defenses

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Complaint 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 Complaint from his CRD record pursuant to FINRA Rule 2080(b)(1)(B) as Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds;
3. Expungement of the Underlying Complaint from his CRD record pursuant to FINRA Rule 2080(b)(1)(C) finding the claim, allegation or information is false;
4. An award of compensatory damages in the amount of \$1.00 from Respondent; and
5. 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 26, 2018, Claimant provided a copy of his notice to the customer in the Underlying Complaint (“Customer”) regarding the Statement of Claim and notice of the expungement hearing. On June 29, 2018, Claimant provided an Affidavit of Service signed by Claimant’s counsel advising that the Customer had been served with the Statement of Claim.

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

The Arbitrator conducted a recorded telephonic hearing on August 8, 2018 so the parties could present oral argument and evidence on Claimant’s request for expungement. The Customer did not appear at the expungement hearing.

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

FINDINGS

The Underlying Complaint arises from a transaction dispute involving the Customer’s investment in a Hartford Putnam Manager Variable Annuity (“Annuity”). As stated on the BrokerCheck® Report, the Customer alleged that Claimant “made various misrepresentations relative to the death benefit” associated with the Annuity.

The Arbitrator notes that, although not made intentionally, Claimant misrepresented to the Customer that she was completing the proper claim form to Hartford, the Annuity provider, in order to maintain the death benefits. Insofar as that representation was incorrect, the Customer’s complaint is neither clearly erroneous nor false, and Claimant admits to having participated in the transaction at issue. Therefore, the criteria for expungement have not been met.

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. Claimant's request for expungement of his CRD record is denied.
2. The Arbitrator has provided an explanation of their decision in this award. The explanation is for the information of the parties only and is not precedential in nature.
3. 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
--------------------------	------------

**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: May 21, 2018	1 session

One (1) Hearing session on expungement request @ \$50.00/session	= \$50.00
Hearing Date: August 8, 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

Marc Kalish

-

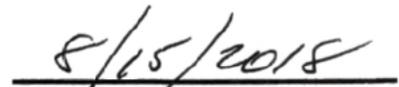
Sole Public Arbitrator

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



Marc Kalish
Sole Public Arbitrator



Signature Date

August 15, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)