

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number ██████████

vs.

Respondent

LPL Financial LLC

Hearing Site: Hartford, Connecticut

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████: Dochter Kennedy, Esq., and Christopher Cummings, Esq., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent LPL Financial LLC: Jon Kaplon, LPL Financial LLC, Boston, Massachusetts.

CASE INFORMATION

Statement of Claim filed on or about: March 8, 2018.

Claimant signed the Submission Agreement: March 8, 2018.

Statement of Answer filed by Respondents on or about: May 4, 2018.

Respondent signed the Submission Agreement: April 9, 2018.

CASE SUMMARY

Claimant asserted the following cause of action: expungement of occurrence number ██████████

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations of wrongdoing and did not contest the request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested compensatory damages in the amount of \$1.00, expungement of his CRD records, and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested any monetary relief be denied.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Arbitrator determined the customer was provided with a copy of the Statement of Claim and received due notice of the expungement hearing.

The Arbitrator conducted a recorded telephonic hearing on September 4, 2018 so the parties could present oral argument and evidence on [REDACTED] 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, 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.

The Arbitrator noted that [REDACTED] 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: sworn testimony of [REDACTED], exhibits, testimony of Respondent's attorney, and services process on the customer and deeming it satisfactory.

AWARD

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

1. Claimant's claim for compensatory damages is denied in its entirety.
2. The Arbitrator recommends the expungement of all references to occurrence number [REDACTED] from registration records maintained by the Central Registration Depository ("CRD"), for Claimant [REDACTED] (CRD# [REDACTED], with

the understanding that, pursuant to Notice to Members 04-16, Claimant [REDACTED] [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 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:

The Claimant, [REDACTED], has provided satisfactory documentary support that his CRD should be expunged of the customer complaint which alleged "Misrepresentation of Home Refinancing Transaction and Unsuitability of Variable Annuity Investments and Advisory Account Investments in Mutual Funds, Exchange Traded Funds, and Equities."

The Claimant, [REDACTED], through his sworn or affirmed testimony, and supported by the exhibits submitted to FINRA in support of this expungement hearing satisfactorily proved that:

(a) he had nothing to do with the refinancing of the customer's home. The documentation submitted shows that customer had 40 years of real estate experience, owned investment properties, and entered into the Refinance Agreement on her personal residence on her own.

(b) the investments made by the customer were suitable and met her personal needs. [REDACTED] testified, without objection, that the customer (through her children) requested his assistance in helping them with their financial situation. According to the testimony, upon meeting [REDACTED] the customer only had 13 months of liquid income left to live on, and to meet her medical obligations. [REDACTED] testified, without objection, that after advising the customer about an investment, the customer was able to not only meet her financial obligations, but the customer made bi-monthly withdrawals from her brokerage account in the amount of \$10,000.00. In addition, [REDACTED] testified, without objection, that during 2008, when there was a market crash of 41% the customer's investment only dropped 10%, and by August 5, 2008 the customer had withdrawn in excess of \$230,000.00 for personal expenses. [REDACTED] testified, without objection, that the investment suggested to the customer exceeded her expectations and was surely suitable for her families' needs.

(c) the customer's investment was more than suitable for her requests and needs, and therefore, her claim of "Unsuitability of Variable Annuity Investments and Advisory Account Investments in Mutual Funds, Exchange Traded Funds, and Equities", as stated in her complaint was false.

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
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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 events giving rise to the dispute. Accordingly, as a party, Respondent LPL Financial LLC 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: June 18, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: September 4, 2018	1 session

Total Hearing Session Fees	= \$100.00
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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.

