

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

Case Number: [REDACTED]

vs.

Respondent

Hearing Site: Boca Raton, Florida

Raymond James Financial Services, Inc.

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [REDACTED] Eric Litow, Esq. and Dochter Kennedy MBA, J.D. at AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent Raymond James Financial Services, Inc. ("RJFS"): Stanton A. Fears, Esq., Raymond James Financial Services, Inc., St. Petersburg, Florida.

CASE INFORMATION

Statement of Claim filed on or about: April 12, 2018.

[REDACTED] signed the Submission Agreement: April 12, 2018.

Statement of Answer filed by Respondent on or about: June 5, 2018.

RJFS signed the Submission Agreement: June 5, 2018.

CASE SUMMARY

Claimant asserted the following cause of action: inaccurate reporting on his Central Registration Depository ("CRD") records. The cause of action relates to a previously settled customer arbitration (Occurrence No. [REDACTED], involving investments in technology stocks.

In the Statement of Answer, Respondent stated that it does not oppose Claimant's request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of CRD Occurrence No. [REDACTED] from his CRD records; compensatory damages of \$1.00; and all other relief deemed just and equitable.

In the Statement of Answer, Respondent did not delineate a specific relief request.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about September 10, 2018, Claimant provided the underlying customer regarding Occurrence Number [REDACTED] a copy of the Statement of Claim seeking expungement, and notice of the date and time of the upcoming hearing, and of his right to participate therein. On or about September 20, 2018, Claimant filed an Affidavit of Service attesting to the service of the Statement of Claim upon the underlying customer. The underlying customer did not file a response thereto.

The Arbitrator conducted a recorded telephonic hearing on October 9, 2018, so the parties could present oral argument and evidence on Claimant's request for expungement.

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

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

The underlying customer did not participate in the expungement hearing.

The Arbitrator reviewed the BrokerCheck® Report for Claimant and the settlement documents, considered the amount of payments made to any party, and considered other relevant terms and conditions of the settlement. Specifically, the Arbitrator noted that Claimant contributed approximately 17% to the settlement amount by paying the deductible of the firm's errors and omissions policy. The Arbitrator further noted that the settlement was not conditioned on Claimant not opposing the request for expungement.

The Arbitrator noted that Claimant 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: exhibits 1-7 attached to the Statement of Claim admitted into evidence.

AWARD

After considering the pleadings, the testimony and evidence presented at the recorded hearing, and the post-hearing submissions (if any), the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

The Arbitrator recommends the expungement of all references to the above-captioned arbitration from registration records maintained by the CRD, for Claimant (CRD# [REDACTED]) with the understanding that, pursuant to Notice to Members 04-16, Claimant 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 ("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; and

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons:

The underlying Customer transferred an IRA account with four positions to Respondent, valued at \$366,000.00 (AOL, Cisco, Intel and Microsoft). The Customer was 65 years old and unable to work, and he needed \$50,000.00 - \$75,000.00 per year for living expenses. The Customer's objectives were growth with medium risk.

Based on the Claimant's copious notes, it is obvious that the Customer chose his investments, including the particular securities positions, and decided when to buy and sell them, which he did, against Claimant's advice.

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:	August 17, 2018	1 session	
One (1) hearing session on expungement request @			=\$ 50.00
Hearing Date:	October 9, 2018	1 session	
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Total Hearing Session Fees			=\$ 100.00

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

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

ARBITRATOR

Mark C. Perry

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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

Mark C. Perry
Sole Public Arbitrator

October 18, 2018.

Signature Date

10/18/2018

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