

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Centaurus Financial, 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, Westminster, Colorado and Armin Sarabi, Esq., HLBS Law, Westminster, Colorado.

For Respondent Centaurus Financial, Inc. ("Respondent"): Michael Leahy, Esq., Principal Counsel, Centaurus Financial, Inc., Anaheim, California.

CASE INFORMATION

Statement of Claim filed on or about: October 12, 2017.
Claimant signed the Submission Agreement: October 12, 2017.

Statement of Answer filed by Respondent on or about: December 6, 2017.
Respondent signed the Submission Agreement: December 18, 2017.

CASE SUMMARY

Claimant asserted a claim seeking expungement of a FINRA arbitration case, occurrence number ██████████ ("Underlying Arbitration") from his Central Depository Registration ("CRD") records.

Unless specifically admitted in the Statement of Answer, Respondent did not oppose the allegations in the Statement of Claim but reserved its right to oppose any future allegations to the extent that the allegations in the Statement of Claim change.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Arbitration 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 Arbitration from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as 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.

In the Statement of Answer, Respondent did not set forth a relief request.

OTHER ISSUES CONSIDERED AND DECIDED

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

On April 11, 2018, Claimant provided notice that the Statement of Claim and notice of the expungement hearing was served on the customers in the Underlying Complaint ("Customers"). On April 18, 2018, Claimant filed an Affidavit of Service signed by Claimant's counsel advising that the Customers were served with the Statement of Claim.

The Arbitrator conducted a recorded telephonic hearing on May 8, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

Brian Harland, Esq., Michael Leahy, Esq. and Paul King appeared on behalf of Respondent at the May 8 expungement hearing and did not contest the request for expungement.

At the May 8 expungement hearing, Claimant withdrew his request for \$1.00 in compensatory damages.

By Order dated May 11, 2018, the Arbitrator issued an order requesting an additional call regarding the amendment of Claimant's Form U-4. The Arbitrator held an additional conference call on June 13, 2018.

On June 15, the Arbitrator issued a Report of June 13, 2018 Teleconference, which requested, among other things, that Claimant advise FINRA by July 2, 2018, whether he wished to schedule a second evidentiary hearing and that the parties may suggest revisions to the Form U-4 and BrokerCheck® Report. On July 2, 2018, Claimant filed a submission indicating that he wished to proceed with a second evidentiary hearing on the new issues presented. Respondent did not file a response.

On September 19, 2018, Claimant filed a copy of its notice to the Customers of the date and time for the second expungement hearing.

The Arbitrator conducted a second recorded telephonic hearing on October 10, 2018 so the parties could present further oral argument and evidence on Claimant's request for expungement.

Michael Leahy, Esq. and Michael West, Esq. appeared on behalf of Respondent at the October 10 expungement hearing and did not contest the request for expungement.

The Customers did not participate in either of the expungement hearings. The Arbitrator found that the Customers had notice of both expungement hearings.

The Arbitrator reviewed Claimant's BrokerCheck® Report.

The Arbitrator also reviewed the settlement documents, considered the amount of payments made to any party, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the Customers not opposing the request for expungement. The Arbitrator also noted that Claimant did not contribute to the settlement amount.

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: Claimant's testimony and Hearing Exhibits 1-22.

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, and the post-hearing submissions, 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 Arbitration, occurrence number [REDACTED], from registration records maintained by the CRD, for Claimant [REDACTED] (CRD# [REDACTED]), 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 findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The claim, allegation, or information is false.

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

In the Underlying Arbitration, the Customers alleged that Claimant recommended and purchased variable annuities without disclosing they carried early surrender charges. However, the Customers both signed acknowledgements prior to purchasing the annuities that they were subject to surrender charges if surrendered within a specified amount of time after purchase. Therefore, the allegation shown in Claimant's BrokerCheck® Report, reflecting the information in Claimant's Form U-4 and CRD records, is both clearly erroneous and false.

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
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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, Respondent 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(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with a single arbitrator @ \$50.00/session	= \$100.00
Pre-hearing conference: March 23, 2018	1 session
June 13, 2018	1 session

Two (2) hearing sessions on expungement request @ \$50.00/session	= \$100.00
Hearing Dates: May 8, 2018	1 session
October 10, 2018	2 session

Total Hearing Session Fees	= \$200.00
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The Arbitrator has assessed \$200.00 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

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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



October 18, 2018

Signature Date

Marc Kalish
Sole Public Arbitrator

October 22, 2018

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