

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
[REDACTED]

Case Number: [REDACTED]

vs.

Respondent
Next Financial Group, Inc.

Hearing Site: Jackson, Mississippi

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [REDACTED] ("Claimant"): Dochter Kennedy, J.D. and MBA and 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 or about: March 9, 2018.
Claimant signed the Submission Agreement: March 9, 2018.

Statement of Answer filed by Respondent on or about: May 1, 2018.
Respondent signed the Submission Agreement: April 30, 2018.

CASE SUMMARY

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

In the Statement of Answer, Respondent advised that it does not oppose expungement and will defer to the Arbitrator's assessment.

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. 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 requested:

1. Claimant's request for damages be denied in its entirety; and
2. Claimant be assessed with all forum fees, costs, and other charges relating to this case as provided in FINRA Rule 13805(d).

At the hearing, Claimant withdrew his request for \$1.00 in compensatory damages from Respondent.

OTHER ISSUES CONSIDERED AND DECIDED

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

On September 11, 2018, Claimant provided notice that the Statement of Claim and notice of the expungement hearing was served on the customers in the Underlying Arbitration ("Mr. SL" and "Mr. FL"). Hereinafter Mr. SL and Mr. FL are collectively referred to as the "Customers."

On October 3, 2018, Claimant submitted an Affidavit of Service signed by Claimant's counsel advising that the Customers were served with a copy of the Statement of Claim.

The Arbitrator conducted a recorded telephonic hearing on October 11, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, did not contest the request for expungement. The Arbitrator found that the Customers had notice of the expungement request and hearing but did not participate.

The Arbitrator reviewed the BrokerCheck® Report for Claimant.

The Arbitrator also reviewed the Settlement Agreement and Release between Respondent and Mr. SL and the Settlement Agreement and Release between Respondent and Mr. FL ("Settlement Agreements"), considered the amount of payments made to any party, and considered other relevant terms and conditions of the Settlement Agreements. The Arbitrator noted that the amount of the settlement was approximately 16% of the damages requested in the Underlying Arbitration. The Arbitrator noted that the settlements were not conditioned on the Customers not opposing the request for expungement. The Arbitrator also noted that Claimant did not contribute to the settlement amounts.

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: the pleadings filed; the testimony presented by Claimant; a review of Claimant's BrokerCheck® Report; and the Settlement Agreements.

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

The recommendation is based on the Claimant's testimony and that the Customers and Respondent did not object to the request for expungement.

Claimant testified that the Customers had real estate investment experience and wanted to defer the taxable gains from recent real estate transactions by utilizing Section 1031 of the United States Internal Revenue Code. Claimant testified that he met with the Customers several times and determined their risk tolerance was moderate to aggressive and explained the risks involved with the investment. A prospectus was provided to the Customers which also discussed the risks regarding the investment.

The investments performed as expected during the next two years, but due to the subsequent global financial crisis, they discontinued making distributions to the owners of the investment. Claimant testified that the Customers never expressed dissatisfaction with the investment until 2014 when they filed the Underlying Arbitration with FINRA. Claimant was not named in the Underlying Arbitration.

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(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
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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:

One (1) pre-hearing session with a single arbitrator @ \$50.00/session	= \$50.00
Pre-hearing conference: June 19, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$50.00
Hearing Date: October 11, 2018	1 session

Total Hearing Session Fees	= \$100.00
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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

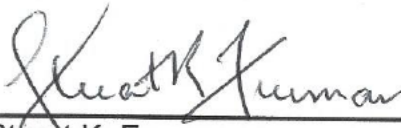
Stuart K. Furman

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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



Stuart K. Furman
Sole Public Arbitrator

10-22-18

Signature Date

October 23, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)