

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondents

AXA Advisors, LLC

The Equitable Life Assurance Society

Hearing Site: Albuquerque, New Mexico

Nature of the Dispute: Associated Person vs. Members

REPRESENTATION OF PARTIES

For Claimant ██████████ (“Claimant”): Dochter Kennedy, J.D., MBA,
AdvisorLaw LLC, Broomfield, Colorado.

For Respondents AXA Advisors, LLC (“AXA”), and The Equitable Life Assurance
Society (“ELA Society”): Hector D. Geribon, Esq., AXA Equitable Life Insurance
Company Law Department, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: April 5, 2018.

Amended Statement of Claim filed on or about: June 13, 2018.

Second Amended Statement of Claim filed on or about: July 6, 2018.

Claimant signed the Submission Agreement: April 5, 2018.

Statement of Answer filed by Respondents on or about: August 3, 2018.

AXA signed the Submission Agreement: August 15, 2018.

ELA Society did not sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of the following three customer disputes from his Central Registration Depository (“CRD”): two customer complaints, occurrence numbers ██████████ and ██████████; and one civil litigation, occurrence number ██████████.

In the Amended Statement of Claim, Claimant added ELA Society as a respondent and requested expungement of two additional customer complaints, occurrences numbers [REDACTED] and [REDACTED]. Claimant also requested consolidation of occurrence number [REDACTED] with occurrence number [REDACTED] and occurrence number [REDACTED] with occurrence number [REDACTED]. Claimant also included factual allegations with respect to customer dispute occurrence number [REDACTED], but did not request expungement of this occurrence.

In the Second Amended Statement of Claim, Claimant removed all references to occurrence number [REDACTED].

Hereinafter, occurrences numbers [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] are collectively referred to as "Underlying Claims."

In the Statement of Answer, Respondents advised that they took no position with respect to Claimant's request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of occurrence numbers [REDACTED], [REDACTED], and [REDACTED] 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 occurrence numbers [REDACTED], [REDACTED], and [REDACTED] from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
3. Damages in the amount of \$1.00 from Respondents; and
4. Any and all other relief that the Arbitrator deems just and equitable.

In the Amended Statement of Claim, Claimant requested:

1. Expungement of the Underlying Claims 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 Claims from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
3. Consolidation of occurrence numbers [REDACTED] and [REDACTED];
4. Consolidation of occurrence numbers [REDACTED] and [REDACTED];
5. Damages in the amount of \$1.00 from Respondents; and
6. Any and all other relief that the Arbitrator deems just and equitable.

In the Second Amended Statement of Claim, Claimant requested the same relief as set forth in the Amended Statement of Claim.

In the Statement of Answer, Respondents requested:

1. Claimant take nothing against AXA;
2. The Arbitrator deny Claimant's request for \$1.00 in compensatory damages;
3. To the extent that AXA is required to participate in the proceedings, that AXA be awarded the costs of this proceeding; and
4. An order that all costs of this proceeding, including forum fees, be assessed

against Claimant.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

ELA Society did not file with FINRA Office of Dispute Resolution a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and having answered the claim is bound by the determination of the Arbitrator on all issues submitted.

By letter dated October 1, 2018 ("FINRA Letter"), FINRA Office of Dispute Resolution ("ODR") advised the parties and the Arbitrator that due to the unusual request for consolidation of occurrence numbers in the Second Amended Statement of Claim, ODR consulted FINRA Registration and Disclosures Department ("RAD"). RAD advised that the consolidation of occurrence numbers should be processed by either: (1) Claimant's firm through an amended U4 filing in CRD; or (2) Claimant through the BrokerCheck dispute process.

On October 9, 2018, Claimant provided notice that the Second Amended Statement of Claim and notice of the expungement hearing was served on: the customer in occurrence number [REDACTED] ("Ms. O"); the customers in occurrence number [REDACTED] ("Mr. C" and "Ms. R"); the customer in occurrence number [REDACTED] ("Mr. H"); the customer in occurrence number [REDACTED] ("Ms. B"); and the customers in occurrence number [REDACTED] ("Mr. and Mrs. Z"), collectively referred to as the "Customers."

On October 15, 2018, Claimant submitted an Affidavit of Service signed by Claimant's counsel advising that the Customers were served with the Statement of Claim.

On October 22, 2018, Mr. H filed two written submissions in opposition to Claimant's request for expungement.

The Arbitrator conducted a recorded telephonic hearing on October 24, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondents participated in the expungement hearing and did not contest the request for expungement. Mr. H participated in the expungement hearing and contested the request for expungement.

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. Claimant's request for expungement of the Underlying Claims, occurrences numbers [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED], from his CRD records is denied.
2. Pursuant to the FINRA Letter, consolidation of the occurrences numbers is not within the Arbitrator's purview.
3. 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

**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, AXA is assessed the following:

Member Surcharge = \$ 150.00

Accordingly, as a party, ELA Society 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 21, 2018 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$50.00
Hearing Date: October 24, 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

Daniel M. Yamshon

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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



Daniel M. Yamshon
Sole Public Arbitrator

November 14, 2018
Date

November 14, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)