

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
[REDACTED]

Case Number: [REDACTED]

vs.

Respondent
Lincoln Financial Advisors Corporation

Hearing Site: San Francisco, California

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [REDACTED] ("Claimant"): Dochter Kennedy, MBA, J.D., AdvisorLaw LLC, Broomfield, Colorado and Owen Harnett, Esq., HLBS Law, Westminster, Colorado.

For Respondent Lincoln Financial Advisors Corporation ("Respondent"): Andrew S. Azarmi, Esq. and Thomas Worger, Esq., Dentons US LLP, San Francisco, California.

CASE INFORMATION

Statement of Claim filed on: February 27, 2018.
Claimant signed the Submission Agreement: February 27, 2018.

Statement of Answer filed by Respondent on: April 25, 2018
Respondent signed the Submission Agreement: May 1, 2018.

CASE SUMMARY

Claimant requested expungement of reference to a customer complaint, occurrence number [REDACTED] ("Underlying Complaint") from his Central Registration Depository ("CRD") record.

In the Statement of Answer, Respondent advised that it does not contest this arbitration and stipulates to Claimant's request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Complaint 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 Complaint 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.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

On June 27, 2018, the Arbitrator issued an order for Claimant to provide a copy of the "Notice to Arbitrator and Parties on Expanded Expungement Guidance" and a copy of the Statement of Claim to the customer in the Underlying Complaint ("Customer") no later than August 15, 2018. The Arbitrator further ordered the Customer to provide her availability for a pre-hearing conference.

On August 15, 2018, Claimant provided a copy of his notice to Customer regarding the "Notice to Arbitrator and Parties on Expanded Expungement Guidance," the Statement of Claim and the Arbitrator's June 27 Order. On August 22, 2018, Claimant provided an Affidavit of Service signed by Claimant's counsel advising that the Customer had been served with the "Notice to Arbitrator and Parties on Expanded Expungement Guidance" and the Statement of Claim.

On October 9, 2018, Claimant provided a copy of his follow-up notice to the Customer regarding the expungement hearing.

On October 18, 2018, Claimant provided a copy of the Customer's response dated October 14, 2018 in support of Claimant's request for expungement as Exhibit 22 in Claimant's Expungement Hearing Exhibits ("Exhibits").

The Arbitrator conducted a recorded telephonic hearing on October 31, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and did not contest the request for expungement. The Customer did not appear at the expungement hearing.

The Arbitrator reviewed Claimant's BrokerCheck® Report.

The Arbitrator determined that the Underlying Complaint was not settled and therefore there were no settlement agreements to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Exhibit 3 – Email from Customer to Claimant dated September 25, 2017, Claimant's Exhibit 4 – Email from Customer to Claimant dated September 26, 2017, Claimant's Exhibit 5 – Email between Customer and Customer's daughter between July and September 2017 and Claimant's Exhibit 22 – Response from Customer dated October 14, 2018.

The Arbitrator noted that Claimant did not previously request expungement of the same disclosure in the CRD.

The parties present at the hearing have agreed that a handwritten, signed Award may be entered.

AWARD

1. The Arbitrator recommends the expungement of all references to the Underlying Complaint, occurrence number [REDACTED], from Claimant [REDACTED] (CRD# [REDACTED]) registration records maintained by the CRD, 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 finding 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 finding based on the following reasons:

The Underlying Complaint was based on an email from the Customer's daughter to the Customer, which was forwarded to Claimant. The Customer stated in an email to Claimant that the daughter's email was not a complaint. Based on the Customer's submission of October 14, 2018, the Customer clearly indicated that it was a "misunderstanding that was immediately cleared up." That it was a "mistake" of the Customer's and that Claimant is "honest, ethical and hard-working" and who is still managing the Customer's investments

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: September 20, 2018 1 session	

One (1) Hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: October 31, 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

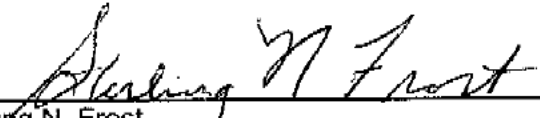
Sterling N. Frost

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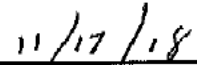
Sole Public Arbitrator

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



Sterling N. Frost
Sole Public Arbitrator



Signature Date

November 19, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)