

**Award**  
**FINRA Office of Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

LPL Financial LLC

Hearing Site: Hartford, Connecticut

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████: Docthor Kennedy, Esq., and Harris Freedman, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent LPL Financial LLC: Jon Kaplon, LPL Financial LLC, Boston, Massachusetts.

**CASE INFORMATION**

Statement of Claim filed on or about: March 2, 2018.

Claimant signed the Submission Agreement: March 2, 2018.

Statement of Answer filed by Respondent on or about: May 15, 2018.

Respondent signed the Submission Agreement: March 7, 2018.

**CASE SUMMARY**

Claimant asserted the following cause of action: expungement.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested compensatory damages in the amount of \$1.00, expungement of Occurrence # ██████████, and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer Respondent did not oppose the request for expungement and requested that any request for monetary damages be denied.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

The Arbitrator conducted a recorded telephonic hearing on December 7, 2018 so the parties could present oral argument and evidence on [REDACTED] request for expungement.

Claimant provided proof that he notified the customer in the underlying complaint of the expungement request and of the customer's right to participate and testify at the expungement hearing and included a copy of the Statement of Claim with the notice.

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

The Arbitrator reviewed the BrokerCheck® Report for [REDACTED].

The Arbitrator noted that [REDACTED] 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, exhibits and the investigation by LPL Financial which cleared [REDACTED]

### **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 \$1.00 in compensatory damages is denied.
2. The Arbitrator recommends the expungement of all references to Occurrence # [REDACTED] from registration records maintained by the Central Registration Depository ("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, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

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

Claimant testified credibly that he explained to the customers how preferred stock might be utilized to increase their monthly withdrawal. The customer agreed. As the market declined, the preferred stock investment declined. Any losses were due to market fluctuation, not the actions of the broker. After two months, the customers became nervous and moved the account.

3. Any and all claims for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the Code of Arbitration Procedure, 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 events giving rise to the dispute. Accordingly, as a party, LPL Financial LLC 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, including a pre-hearing conference with the arbitrator, 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: July 17, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: December 7, 2018	1 session

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Total Hearing Session Fees	= \$100.00
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The Arbitrator has assessed the \$100.00 hearing session fees to Claimant.

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

**ARBITRATOR**


Samuel H. Chorches

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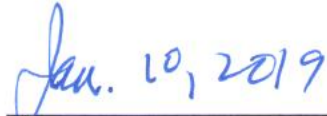
Sole Public Arbitrator

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**



Samuel H. Chorches  
Sole Public Arbitrator



Signature Date

January 10, 2019

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