

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

██████████

Case Number: ██████████

vs.

Respondent

Merrill Lynch Pierce Fenner & Smith Inc.

Hearing Site: Baltimore, Maryland

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████: Armin Sarabi, J.D., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent Merrill Lynch Pierce Fenner & Smith Inc. ("Merrill Lynch"): Sarah K. Yates, Esq., Bressler, Amery & Ross, P.C., Birmingham, Alabama.

CASE INFORMATION

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

██████████ signed the Submission Agreement: February 5, 2018.

Statement of Answer filed by Respondents on or about: April 5, 2018.

Merrill Lynch signed the Submission Agreement: April 5, 2018.

CASE SUMMARY

Claimant asserted the following causes of action: expungement of Occurrence numbers ██████████ and ██████████.

Unless specifically admitted in the Statement of Answer, Respondent took no position on Claimant's request for expungement, but with respect to Claimant's request for compensatory damages, denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested the following:

1. expungement of occurrence numbers ██████████ and ██████████ from his CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the claims, allegations, or

- information is factually impossible or clearly erroneous;
2. expungement of occurrence numbers [REDACTED] and [REDACTED] from his CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claims, allegations, or information is false; and
 3. an award of damages in the amount of \$1.00 from the Respondent.

In the Statement of Answer, Respondent did not oppose Claimant's request for expungement, but objected to Claimant's request for compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

Claimant provided FINRA Office of Dispute Resolution with proof that he notified the customers related to occurrence numbers [REDACTED] and [REDACTED] of the expungement request and of their right to participate and testify at the expungement hearing and included a copy of the Statement of Claim with the notice.

The Arbitrator conducted a recorded telephonic expungement hearing on December 3, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

At the hearing, Claimant withdrew his request for compensatory damages.

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

Respondent participated in the expungement hearing, but did not contest the request for expungement.

The Arbitrator reviewed the BrokerCheck® Report for [REDACTED] and the settlement documents related to occurrence numbers [REDACTED] and [REDACTED], considered the amount of payments made to the customers, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on the customers not opposing the request for expungement. The Arbitrator also noted that [REDACTED] did not contribute to the settlement amounts.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim, Respondent's Statement of Answer, [REDACTED] BrokerCheck® Report, the settlement agreements related to occurrence numbers [REDACTED] and [REDACTED], and the testimony and evidence presented at the telephonic expungement hearing.

The Arbitrator noted that [REDACTED] not previously file a claim requesting expungement of the same disclosure in the CRD.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or 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 occurrence number [REDACTED] from registration records maintained by the Central Registration Depository ("CRD"), for [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, [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 findings of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

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

Mr. [REDACTED] was not involved in the alleged investment decision. As stated in the Statement of Claim and testified by the Claimant at the hearing, all investment recommendations and decisions took place between the customer and a Certified Financial Advisor on Mr. [REDACTED] team. Mr. [REDACTED] was not involved in the recommendations and decisions.

2. The Arbitrator recommends the expungement of all references to occurrence number [REDACTED] from registration records maintained by the Central Registration Depository ("CRD"), for [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, [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 findings of fact:

The claim, allegation, or information is false.

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

The claim of unsuitability is false. [REDACTED] testimony at the hearing and the Statement of Claim clearly established that there is no basis for the claim. The evidence showed that [REDACTED] and another Merrill Lynch Investment Advisor exercised reasonable diligence, that the customers were growth oriented clients and that they refused to follow the more conservative guidance of both [REDACTED] and a second Investment Advisor.

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:

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|--------------------------|-----------|
| 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 that employed the associated person at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Merrill Lynch Pierce Fenner & Smith Inc. is assessed the following:

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| 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:

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| One (1) pre-hearing session with a single arbitrator @ \$50.00/session | =\$ 50.00 |
| Pre-hearing conference: July 2, 2018 | 1 session |

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|---|-----------|
| One (1) hearing session @ \$50.00/session | =\$ 50.00 |
| Hearing Date: December 3, 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.

FINRA Office of Dispute Resolution

Arbitration No. [REDACTED]

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

ARBITRATOR

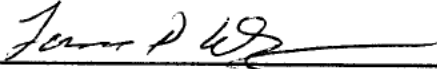
Louis P. Wagman

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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



Louis P. Wagman
Sole Public Arbitrator

1-8-19

Signature Date

January 11, 2019

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