

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

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In the Matter of the Arbitration Between:

Claimant

Case Number: [REDACTED]

vs.

Respondent

Hearing Site: Detroit, Michigan

Sigma Financial Corporation

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant [REDACTED] ("Claimant"): Armin Sarabi, Esq. and Docthor Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Sigma Financial Corporation ("Respondent"): Jonathan M. Sterling, Esq., Saretsky, Hart, Michael & Gould, PC, Birmingham, Michigan.

**CASE INFORMATION**

Statement of Claim filed on or about: February 5, 2018.  
Claimant signed the Submission Agreement: February 5, 2018.

Statement of Answer filed on or about: June 22, 2018.  
Respondent signed the Submission Agreement: June 25, 2018.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted a claim seeking expungement of a customer complaint ("Underlying Complaint"), Occurrence Number [REDACTED], from his registration records maintained by the Central Registration Depository ("CRD").

In the Statement of Answer, Respondent took no position on Claimant's request for expungement and denied any wrongdoing.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested that the Underlying Complaint be expunged from his records maintained by the CRD, compensatory damages in the amount of \$1.00 from Respondent, and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that the Panel deny Claimant's request for compensatory damages and assess all fees against Claimant.

At the close of the hearing, Claimant withdrew his request for monetary damages.

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

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

On or about October 5, 2018, Claimant sent a copy of the Statement of Claim and notice of the expungement hearing to the customer in the Underlying Complaint. On or about October 16, 2018, Claimant submitted an Affidavit of Service in which Claimant's counsel, Doctor Kennedy, stated that the Statement of Claim and notice of the expungement hearing was served upon the customer in the Underlying Complaint (the "Customer") by certified mail.

The Arbitrator conducted a recorded, telephonic hearing on November 14, 2018, so the parties could present oral argument and evidence on Claimant's request for expungement.

The Customer did not participate in the expungement hearing.

Respondent participated in the expungement hearing, but did not oppose Claimant's request for expungement.

The Arbitrator reviewed the BrokerCheck® Report for Claimant. The Arbitrator noted that a settlement was not reached in the Underlying Complaint.

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: Statement of Claim, written correspondence from the Customer, testimony of Claimant regarding the Customer's investment objectives, decision to purchase annuity, the time line, and the Customer's later inquiry and subsequent withdrawal of any request for assistance or investigation in writing.

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the sole remaining issue of expungement submitted for determination as follows:

The Arbitrator recommends the expungement of all references to Occurrence Number [REDACTED] from registration records maintained by the CRD, for Claimant (CRD [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, Claimant 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 findings based on the following reasons:

The Customer was seeking information about an annuity he purchased. He admitted he was confused about its features. He was instructed by the issuer of the annuity to write a letter, which he did. The letter asking for assistance is what gave rise to the report on Claimant's records maintained by the CRD. The letter that led to this Occurrence appearing on Claimant's records maintained by the CRD was written in a state of confusion. Once the Customer spoke with Respondent and his confusion was addressed neither the Customer or Respondent believed this information should appear on the Claimant's records maintained by the CRD, and the Customer withdrew any complaint he previously had, therefore this Occurrence should be removed from Claimant's records maintained by the CRD.

### **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

*\*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, Respondent 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, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00

Hearing Date: November 14, 2018      1 session  
Total Hearing Session Fees =\$ 50.00

The Arbitrator has assessed \$50.00 of the hearing session fees to Claimant.

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

**ARBITRATOR**

Tracy L. Allen

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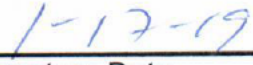
Sole Public Arbitrator

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**



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Tracy L. Allen  
Sole Public Arbitrator



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Signature Date

January 17, 2019

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