

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

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In the Matter of the Arbitration Between:

Claimant  
[REDACTED]

Case Number [REDACTED]

vs.

Respondent  
Sentra Securities Corporation

Hearing Site: Denver, Colorado

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant [REDACTED] ("Claimant"): Michael Bassette, Esq., HLBS Law, Westminster, Colorado.

For Respondent Sentra Securities Corporation ("Respondent"): Phillip Hofling, Custodian, Sentra Securities Corporation, Phoenix, Arizona.

**CASE INFORMATION**

Statement of Claim filed on: May 16, 2018.  
Claimant signed the Submission Agreement: May 16, 2018.

Respondent did not file a Statement of Answer and did not sign the Submission Agreement.

**CASE SUMMARY**

Claimant requested expungement of reference to an NASD arbitration case, occurrence number [REDACTED] ("Underlying Arbitration") from his Central Registration Depository ("CRD") records

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Arbitration 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 Arbitration from his CRD record pursuant to FINRA Rule 2080(b)(1)(B) as Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds;

3. Expungement of the Underlying Arbitration from his CRD record pursuant to FINRA Rule 2080(b)(1)(C) as the claim, allegation or information is false;
4. An award of compensatory damages in the amount of \$1.00 from Respondent; and,
5. Any and all other relief that the Arbitrator deems just and equitable.

At the expungement hearing, Claimant withdrew his 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.

Respondent 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 is bound by the determination of the Arbitrator on all issues submitted.

On October 1, 2018, Claimant provided an Affidavit of Service on Respondent signed by Claimant’s counsel advising that Claimant’s counsel had attempted to serve the Respondent with notice of the claim and found the Respondent was no longer an active FINRA member with no alternate address available for service.

On October 1, 2018, Claimant provided a copy of his notice to the customer in the Underlying Arbitration (“Customer”) regarding the Statement of Claim and notice of the expungement hearing scheduled for December 19, 2018. On October 16, 2018, Claimant provided an Affidavit of Service signed by Claimant’s counsel advising that the Customer had been served with the Statement of Claim.

On December 19, 2018, the Arbitrator conducted a recorded telephonic pre-hearing conference with the parties so the parties could present oral argument and evidence on Claimant’s request for expungement. The Customer did not appear at the expungement hearing. The Arbitrator found that the Customer was notified about the expungement hearing and chose not to participate. Respondent also did not appear at the expungement hearing. Upon review of the file and the representations made by/on behalf of the Claimant, the Arbitrator determined that reasonable unsuccessful attempts were made to serve Respondent with the Statement of Claim and that arbitration of the matter would proceed without said Respondent present, in accordance with the Code.

The Arbitrator reviewed Claimant’s BrokerCheck® Report.

The Arbitrator reviewed the settlement documents from the Underlying Arbitration and considered the amount of payments made to any party and any other terms and conditions of settlement. The Arbitrator determined that Claimant contributed \$5,000.00 (his insurance deductible only) to the \$225,000.00 settlement amount. The Arbitrator noted that Claimant’s testimony showed that Claimant had deferred to his insurance company in the final decision to settle the Underlying Arbitration, that the Underlying Arbitration was resolved for economic reasons, and that he did not admit liability. The

Arbitrator further noted that the insurance company's part of the \$225,000.00 settlement was \$100,000.00 and the balance of the settlement was paid by Respondent and the broker in the original transaction.

The Arbitrator further found that the settlement agreement was not conditioned upon the Customer's agreement not to oppose expungement.

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

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim and Claimant's oral testimony.

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. The Arbitrator recommends the expungement of all references to the Underlying Arbitration, 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, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and

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:

Testimony showed that the Customer was already invested in the questionable investment when the Claimant was solicited to manage the account at issue. It also showed that proper and complete disclosure of

material facts had been presented to the Customer and that the mutual funds involved, and the Claimant's management company, Mutual Asset Advisors, had provided quarterly and monthly reports to the Customer during the time the investment was managed by the Claimant.

Testimony showed the Claimant was not involved with the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds. Claimant was not involved with the Customer when the decision was made to purchase the investments at issue.

The Arbitrator finds the expungement relief and accompanying findings of which it is based are meritorious and the expungement would have no material adverse effect on investor protection, the integrity of the CRD system or regulatory requirements.

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: August 30, 2018	1 session

One (1) Hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: December 19, 2018	1 session

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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**

Donald N. Tolin

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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**

*DNTolin*

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Donald N. Tolin  
Sole Public Arbitrator

*1-23-2019*

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Signature Date

January 23, 2019

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