

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

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In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

QA3 Financial Corp.

Hearing Site: Atlanta, Georgia

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████ ("Claimant"): Doctor Kennedy, MBA, J.D., and Erica Harris, Esq., AdvisorLaw, LLC, Westminster, Colorado.

Respondent QA3 Financial Corp. ("Respondent") did not enter an appearance.

**CASE INFORMATION**

Statement of Claim filed on or about: June 6, 2018.

Claimant signed the Submission Agreement: June 6, 2018.

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

**CASE SUMMARY**

Claimant asserted a claim seeking expungement of a FINRA Arbitration, occurrence number ██████████ ("Underlying Arbitration") from his Central Registration Depository ("CRD") record.

**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. Compensatory damages in the amount of \$1.00 from Respondent; and
  5. Any and all other relief that the Arbitrator deems just and equitable.

### **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 Statement of Answer or 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 November 16, 2018, Claimant submitted an Affidavit signed by Claimant's counsel advising that Claimant's counsel conducted a search of public information available and was unable to locate any information relating to the customer in the Underlying Arbitration ("Customer"). The Arbitrator found that Claimant made sufficient efforts to provide notice to the Customer.

The Arbitrator conducted a recorded telephonic hearing on December 17, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not appear at the expungement hearing. Upon review of the file, the Arbitrator determined that Respondent has been out of business and defunct for several years. The Arbitrator noted that Respondent's participation was not necessary for the expungement request to proceed and determined that the matter would proceed without Respondent present, in accordance with the Code.

The Arbitrator reviewed the BrokerCheck® Report for Claimant. The Arbitrator noted that the Underlying Arbitration was voluntarily and unilaterally abandoned by the Customer and thus there was never any settlement and therefore there were no settlement documents for him to review.

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: testimony of the Claimant during the expungement hearing; the pleadings; and Claimant's BrokerCheck® Report.

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 registration records maintained by the 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 findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

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 findings based on the following reasons:

1. Claimant was not the Customer's financial advisor;
  2. Claimant never met the Customer;
  3. Claimant never spoke with the Customer;
  4. Claimant never recommended any securities of any type to the Customer;
  5. Claimant never supervised anyone who may have recommended the subject securities to the Customer; and
  6. Claimant was never involved in any way with the Customer or her purchase of the subject securities.
2. Claimant's request for \$1.00 of damages is denied.
  3. 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

*\*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:

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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(s), including a pre-hearing conference with the arbitrator(s), 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: October 16, 2108                               | 1 session |

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|--|-----------|
| One (1) hearing session on expungement request @ \$50.00/session | = \$50.00 |
| Hearing Date: December 17, 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**

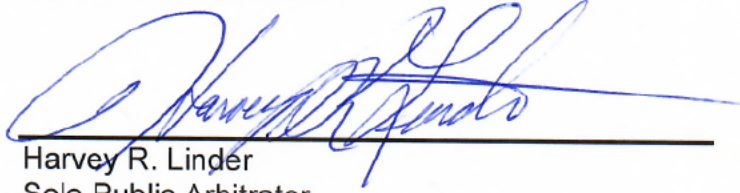
Harvey R. Linder

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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**



Harvey R. Linder  
Sole Public Arbitrator

1/24/19  
Signature Date

January 25, 2019  
Date of Service (For FINRA Office of Dispute Resolution office use only)