

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Edward Jones

Hearing Site: Houston, Texas

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ (“Claimant”): Doctor Kennedy, Esq. and Harris Freedman, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Edward Jones (“Respondent”): Paul Yarns, Esq., Edward Jones, St. Louis, Missouri.

CASE INFORMATION

Statement of Claim filed on or about: April 20, 2018.
Claimant signed the Submission Agreement: April 20, 2018.

Statement of Answer filed on or about: June 12, 2018.
Respondent signed the Submission Agreement: June 12, 2018.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of a customer complaint from his registration records maintained by the Central Registration Depository (“CRD”).

In the Statement of Answer, Respondent stated that it did not oppose Claimant’s request for expungement and asserted various affirmative and other defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number ██████████ from his CRD records, an award of compensatory damages in the amount of \$1.00, and any and all other relief that the Arbitrator deems just and appropriate.

In the Statement of Answer, Respondent objected to Claimant’s request for \$1.00 in compensatory damages.

On the record at the hearing, on November 16, 2018, the Arbitrator granted Claimant's unopposed motion to withdraw his request for \$1.00 in compensatory 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 4, 2018, Claimant submitted copies of the Statement of Claim and notice of the expungement hearing sent to the customer ("Customer") and the Customer's son, associated with Occurrence Number [REDACTED], advising them of the opportunity to participate in the expungement hearing.

Claimant submitted an Affidavit of Service of the Statement of Claim to the Customer and her son, dated October 15, 2018.

By letter, dated November 2, 2018, the Customer's son opposed Claimant's request for expungement, on behalf of the Customer and himself.

The Arbitrator conducted a recorded, telephonic hearing on expungement on November 5, 2018, so the parties could present oral argument and evidence on Claimant's request for expungement. During the hearing, Claimant made an unopposed request to hold an additional expungement hearing, in order to provide the Arbitrator with supplemental exhibits ("Claimant's Request"). The Arbitrator granted Claimant's Request. In her Order, dated November 5, 2018, the Arbitrator scheduled a second telephonic hearing on expungement for November 16, 2018 and ordered Claimant to provide supplemental notice of the hearing to the Customer and proof of service thereof.

On or about November 7, 2018, Claimant submitted updated notices of the expungement hearing to the Customer and the Customer's son, advising them of the opportunity to participate in the second expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on expungement on November 16, 2018, so the parties could present oral argument and evidence on Claimant's request for expungement, including Claimant's additional exhibits. During the hearing, the Arbitrator determined that delivery of the updated notice to the Customer and the Customer's son, by certified mail, could not be confirmed by the U.S. Postal Service. In her Order, dated November 16, 2018, the Arbitrator scheduled a third telephonic hearing on expungement for December 13, 2018, in order to provide Claimant with an additional opportunity to provide notice of the hearing on expungement to the Customer and the Customer's son.

Claimant submitted updated notices of the expungement hearing to the Customer and the Customer's son, advising them of the opportunity to participate in the third expungement hearing, dated November 19, 2018.

The Arbitrator conducted a recorded, telephonic hearing on expungement on December 13, 2018, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in each of the expungement hearings but did not contest the request for expungement. Neither the Customer nor the Customer's son appeared at any of the hearings on expungement.

The Arbitrator reviewed Claimant's BrokerCheck® Report.

The Arbitrator found that there was not a settlement with respect to Occurrence Number [REDACTED]. Accordingly, the Arbitrator did not review a settlement agreement in this matter.

The Arbitrator found 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: Claimant's testimony; Claimant's BrokerCheck® Report; Statement of Claim; Statement of Answer; Claimant's service letters to the Customer and the Customer's son dated October 4, 2018, November 7, 2018, and November 19, 2018; the letter dated November, 2, 2018 from Customer's son; the letter dated September 5, 2003 from the Customer's son; Respondent's letter dated October 16, 2003; Hartford Application documents; Hartford Solution 8 documents; Claimant's letter dated September 19, 2003; policy specification documents; and Statement of Policy Cost and Benefit Information.

AWARD

After considering the pleadings, the testimony, the evidence presented at the hearing, and the post-hearing submission, 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 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 of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative finding of fact:

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

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

The Arbitrator is satisfied that the Customer had full knowledge and understanding of her transactions with Claimant and Respondent. The evidence shows that Claimant personally discussed the Customer's investments with her on numerous occasions over the telephone and in person. The Customer had an attorney present during one of the initial meetings to discuss the Customer's estate planning needs. The Customer's daughter was also present during some of the meetings. A universal life policy was purchased by the Customer in 1996. The Customer was fully informed of the nature of the transactions in her accounts and the risks involved. This life insurance investment was appropriate, considering the Customer's goals and needs. The evidence revealed that Claimant followed the Customer's instructions regarding the accounts. Account statements were provided to the Customer and her daughter.

The Customer's son filed a letter of complaint in September of 2003 regarding a variable universal life insurance policy, which he believed had been sold to the Customer. A variable universal life insurance policy was not sold to the Customer by Claimant. Respondent denied the complaint filed the Customer's son.

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 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
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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 17, 2018	1 session

Three (3) hearing sessions on expungement request @ \$50.00/session	= \$ 150.00
Hearing Dates: November 5, 2018	1 session
November 16, 2018	
December 13, 2018	

Total Hearing Session Fees	= \$ 200.00
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The Arbitrator has assessed \$200.00 of the hearing session fees to Claimant.

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

ARBITRATOR

Sherry R. Wetsch

- 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



Sherry R. Wetsch
Sole Public Arbitrator

2-4-19

Signature Date

02/04/19

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