

AWARD

FINRA Office of DISPUTE RESOLUTION

CASE #: [REDACTED]

[REDACTED] (Claimant) vs. Ameriprise Financial Services, Inc. (Respondent)

REPRESENTATION OF PARTIES:

For Claimant [REDACTED]: Dochter Kennedy, MBA, J.D., and Michael O’Gara, Esq., AdvisorLaw, Broomfield, Colorado.

For Respondent Ameriprise Financial Services, Inc.: Edward A. Walton, Esq., Ameriprise Financial, Troy, Michigan.

NATURE OF DISPUTE: Associated Person vs. Member

Statement of Claim filed on: April 5, 2017.

Statement of Answer filed on: June 9, 2017.

CASE SUMMARY: Claimant requested expungement of two customer complaints from his Central Registration Depository (“CRD”) record: occurrence numbers [REDACTED] and [REDACTED] (“Underlying Claims”).

RELIEF REQUESTED:

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Claims 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 occurrence number [REDACTED] from his CRD record pursuant to FINRA Rule 2080(b)(1)(B) as the Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds;
3. Expungement of the Underlying Claims from his CRD record pursuant to FINRA Rule 2080(b)(1)(C) finding the claim, allegation or information is false;
4. An award of compensatory damages in the amount of \$1.00 from Respondent for its part in contributing to Claimant’s injury; and,
5. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent advised that while it does not oppose Claimant’s request for expungement, it objects to Claimant’s request for compensatory damages and asserts various affirmative and other defenses.

AWARD: The undersigned Arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The Arbitrator recommends the expungement of all references regarding 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 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 registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and,

The claim, allegation, or information is false.

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

Respondent denied the complaint according to the BrokerCheck® Report without monetary compensation to Mr. C, customer in the underlying customer complaint with occurrence number [REDACTED]. Claimant and Mr. C jointly determined the investment in KBS REIT ("KBS") after reviewing a range of investment options. Claimant provided all necessary documentation with regards to KBS to Mr. C. KBS also met Mr. C's investment objectives. The losses suffered by Mr. C were due to the downturn in the market in the period of 2007-2009, which involved issues in the subprime mortgage. After filing the complaint and the denial thereof from Respondent, Mr. C continued using the Claimant for financial services, even when Claimant left employment from Respondent to another institution.

2. Expungement of occurrence number [REDACTED] is denied.
3. Claimant's request for \$1.00 in compensatory damages is denied.
4. Any and all claims for relief not specifically addressed herein are denied.

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

On October 10, 2017, Claimant provided notice that the customers in the Underlying Claims had been served with the Statement of Claim and notice of the expungement hearing.

On October 13, 2017, Claimant provided an Affidavit of Service regarding service of the Statement of Claim on the customers in the Underlying Claims.

On November 6, 2017, Claimant provided the most recent copy of Claimant's BrokerCheck® Report.

On November 15, 2017, Mr. M and Ms. E, customers in the underlying customer complaint with occurrence number [REDACTED], provided a response in support of Claimant's request for expungement.

The Arbitrator conducted a recorded telephonic hearing on November 28, 2017 so the parties could present oral argument and evidence on Claimant's request for expungement. The customers in the Underlying Claims did not appear at the expungement hearing.

The Arbitrator determined that there were no settlement agreements regarding Mr. C's complaint.

The Arbitrator noted that Claimant did not previously request expungement of the Underlying Claims.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report and Statement of Claim, including Exhibits 1 through 13.

OTHER FEES: Respondent has paid to FINRA Office of Dispute Resolution the \$150.00 Member Surcharge previously invoiced.

FINRA 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.

Hearing Session Fees and Assessment

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 7, 2017 1 session

One (1) Hearing session on expungement request @ \$50.00/session = \$50.00
Hearing Date: November 28, 2017 1 session

Total Hearing Session Fees = \$100.00

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

Herbert Liberman

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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



Herbert Liberman
Sole Public Arbitrator

12/6/2017

Signature Date

December 7, 2017
Date of Service (For FINRA-ODR office use only)