

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

██████████

Case Number: ██████████

vs.

Respondent

Geneos Wealth Management, Inc.

Hearing Site: Denver, Colorado

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ (“Claimant”): Dochter Kennedy, MBA, J.D., AdvisorLaw LLC, Westminster, Colorado and Armin Sarabi, Esq., HLBS Law, Westminster, Colorado.

For Respondent Geneos Wealth Management, Inc. (“Respondent”): Victoria H. Buter, Esq., Kutak Rock LLP, Omaha, Nebraska.

CASE INFORMATION

Statement of Claim filed on or about: January 29, 2018.
Claimant signed the Submission Agreement: January 29, 2018.

Statement of Answer filed by Respondent on or about: February 5, 2018.
Respondent did not sign the Submission Agreement.

CASE SUMMARY

Claimant requested expungement of reference to a customer complaint, occurrence number ██████████ (“Underlying Complaint”), from his Central Registration Depository (“CRD”) records.

Respondent stated that it has no objection to the relief Claimant requested in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Complaint from his CRD records pursuant to:
 - a. FINRA Rule 2080(b)(1)(A) as the claim, allegation or information is factually impossible or clearly erroneous;
 - b. 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; and
 - c. FINRA Rule 2080(b)(1)(C) as the claim, allegation or information is false;
2. Compensatory damages in the sum of \$1.00; and
3. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not include any relief requests.

During the expungement hearing, Claimant withdrew his request for compensatory damages in the sum of \$1.00.

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, having answered the claim, is bound by the determination of the Arbitrator on all issues submitted.

On October 4, 2018, Claimant provided notice that the customer in the Underlying Complaint ("Customer") was served with a copy of the Statement of Claim and notice of the expungement hearing.

On October 15, 2018, Claimant provided an Affidavit from the Customer wherein she stated that she supported Claimant's request for expungement of the Underlying Complaint.

The Arbitrator conducted a recorded telephonic hearing on October 22, 2018 so the parties could present oral arguments and evidence on Claimant's request for expungement.

Respondent appeared at the expungement hearing and did not object to Claimant's expungement request. The Customer did not appear at the expungement hearing. Based on the Customer's Affidavit, the Arbitrator found that the Customer received notice of the expungement hearing and supported Claimant's expungement request.

The Arbitrator noted that Claimant did not previously file a claim requesting expungement of the same disclosure in the CRD.

The Arbitrator reviewed Claimant's BrokerCheck® Report and found that the Underlying Complaint was withdrawn (and not settled) and therefore there was no settlement agreement to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Statement of Claim; Customer's email to Claimant in May 2010; and Claimant's testimony during the expungement hearing.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement 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 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 finding of fact:

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:

The issue arose from a written complaint that the Customer sent to Nationwide Insurance Company in 2009, indicating that Respondent's representative misrepresented how the Variable Universal Life policy she had purchased worked. In response to his request for a copy of the complaint, the Arbitrator found that neither the Customer nor Respondent had the original or copies of the complaint to Nationwide Insurance Company.

In May of 2010, the Customer sent an e-mail to Claimant apologizing for involving him in her complaint. The Customer stated that her complaint had been with another registered representative, Mr. R. The Customer then withdrew the complaint.

Sworn testimony established that Mr. R was the agent of record on the Customer's account and that Claimant had not been involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds. The Arbitrator finds the expungement relief and accompanying findings on which it is based are meritorious and the

expungement would have no material adverse effect on investor production, 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: May 7, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$50.00
Hearing Date: October 22, 2018	1 session

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

/s/Donald N. Tolin

Nov. 26,2018

Donald N. Tolin
Sole Public Arbitrator

Signature Date

November 26, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)