

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

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In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

G.R. Phelps & Co., Inc.

Hearing Site: Hartford, Connecticut

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████: Doctor Kennedy, AdvisorLaw LLC, Broomfield, Colorado.

For Respondent G.R. Phelps & Co., Inc.: Corporate Office, G.R. Phelps & Co., Inc., Springfield, Massachusetts.

**CASE INFORMATION**

Statement of Claim filed on or about: March 27, 2017.

████████████████████ signed the Submission Agreement: March 27, 2017.

G. R. Phelps & Co., Inc. did not file an Answer or sign the Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: expungement.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. expungement of the occurrences from his CRD record pursuant to FINRA Rule 2080(b)(1)(A), as the claims, allegations, or information is factually impossible or clearly erroneous;
2. expungement of the occurrences from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as the claims, allegations, or information is false;
3. damages in the amount of \$1.00 from the Respondent for its part in contributing to the Claimant's injury; and
4. any and all other relief that the Arbitrator deems just and equitable.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrator acknowledges that she 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 or Statement of Answer 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.

By letter dated September 11, 2017, Claimant notified the customers related to occurrence # [REDACTED] and occurrence # [REDACTED] of the expungement request and of their right to participate and testify at the expungement hearing and he provided the customers with a copy of the Statement of Claim.

The Arbitrator conducted a recorded telephonic expungement hearing on September 11, 2017 so the parties could present oral argument and evidence on Claimant's request for expungement.

By email dated September 15, 2017, the arbitrator notified FINRA Office of Dispute Resolution that this matter would remain open for 30-days to allow the customers to respond.

Respondent and the customers did not participate in the expungement hearing and did not contest the request for expungement. Claimant represented that the customer related to occurrence # [REDACTED] is deceased.

The Arbitrator reviewed the BrokerCheck® Report for [REDACTED] and the settlement documents related to occurrence # [REDACTED] and occurrence # [REDACTED], considered the amount of payments made to the customers and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the customers not opposing the request for expungement. The Arbitrator also noted that underlying settlement was paid by Respondent and [REDACTED] errors and omissions insurance. [REDACTED] contributed to the settlement amounts by paying his \$500.00 deductible without admitting any guilt or wrongdoing.

In recommending expungement the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim and exhibits, Claimant's BrokerCheck Report, the Settlement Agreement related to occurrence # [REDACTED] and occurrence # [REDACTED], evidence and testimony presented at the expungement hearing.

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

## AWARD

After considering the pleadings, the testimony and evidence presented at the telephonic expungement hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's request for compensatory damages is denied.
2. The Arbitrator recommends the expungement of all references to occurrence # [REDACTED] and occurrence # [REDACTED] from registration records maintained by the Central Registration Depository ("CRD") for [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, [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 false.

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

There is sufficient evidence in the exhibits attached to the Statement of Claim to prove that the underlying claims for unsuitability were false, as the accounts/investments were made by the customers who were sophisticated investors.

3. Any and all claims for relief not specifically addressed herein are denied.

## FEES

Pursuant to the Code of Arbitration Procedure, 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 event(s) giving rise to the dispute. Accordingly, as a party, G.R. Phelps & Co., Inc., is assessed the following:

Member Surcharge = \$ 150.00

**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, including a pre-hearing conference with the arbitrator, 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: July 28, 2017 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00  
Hearing Date: September 11, 2017 1 session

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Total Hearing Session Fees = \$ 100.00

The Arbitrator has assessed the \$100.00 hearing session fees to Claimant.

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

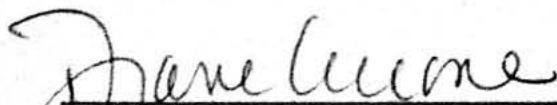
**ARBITRATOR**

Diane Ciccone

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**

  
\_\_\_\_\_  
Diane Ciccone  
Sole Public Arbitrator

12.4.17  
\_\_\_\_\_  
Signature Date

December 8, 2017

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