

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

LPL Financial LLC

Hearing Site: San Diego, California

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ (“Claimant”): Frances Menzer, J.D., HLBS Law, Westminster, Colorado.

For Respondent LPL Financial LLC (“Respondent”): Jon D. Kaplon, Esq., Associate General Counsel, LPL Financial LLC, Boston, Massachusetts.

CASE INFORMATION

Statement of Claim filed on or about: September 12, 2018.
Claimant signed the Submission Agreement: September 12, 2018.

Statement of Answer filed by Respondent on or about: November 6, 2018
Respondent signed the Submission Agreement: September 18, 2018.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of two customer civil litigation cases (“Underlying Litigation”), occurrence numbers ██████████ and ██████████ from her Central Registration Depository (“CRD”) records.

In the Statement of Answer, Respondent supported Claimant’s request for expungement but denied any allegation of wrongdoing.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. An Order recommending expungement of the Underlying Litigation from her CRD records pursuant FINRA Rule 2080(b)(1)(A) as the claim, allegation or

- information is factually impossible or clearly erroneous;
2. An Order recommending expungement of the Underlying Litigation from her CRD records pursuant FINRA Rule 2080(b)(1)(B), as she was not a registered person during the time period of any of the allegations, and therefore could not have been involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds;
 3. An Order recommending expungement of the Underlying Litigation from her CRD records pursuant FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
 4. An award of damages in the amount of \$1.00 from Respondent; and
 5. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. Denial of the \$1.00 in damages; and
2. Claimant pay all forum and hearing fees.

At the close of the hearing, Claimant withdrew her request for \$1.00 in damages.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges that he read the pleadings and other materials filed by the parties.

On January 16, 2019, Claimant filed a copy of her letter providing the customer (“Ms. V”) in occurrence number [REDACTED] and the customers (“Ms. R” and “Ms. K”) in occurrence number [REDACTED] with notice of the expungement hearing and a copy of the Statement of Claim.

Hereinafter, Ms. V, Ms. R and Ms. K are collectively referred as the “Underlying Customers.”

The Arbitrator conducted a recorded telephonic hearing on March 20, 2019 so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, did not contest the request for expungement.

None of the Underlying Customers (or their representatives) participated in the expungement hearing. The Arbitrator found that the Underlying Customers had notice of the expungement request and hearing.

The Arbitrator reviewed Claimant’s BrokerCheck® Report.

The Arbitrator also reviewed the settlement documents, considered the amount of payments made to any party, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlements were not conditioned on the Underlying Customers not opposing the request for expungement. The Arbitrator also noted that Claimant did not contribute to the settlement amounts and found that the

settlement amounts were not relevant to this action because Claimant was not registered at the time of the Underlying Litigation.

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

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony 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 mention to the Underlying Litigation, occurrence numbers [REDACTED] and [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 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; and

The claim, allegation, or information is false.

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

Claimant's testimony and BrokerCheck® Report both establish that while Claimant worked with Respondent as an assistant at the time of the Underlying Litigation, she was not a registered representative or financial advisor to any of the complainants in the Underlying Litigation. Therefore, the allegations against Claimant are false and clearly erroneous.

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: January 8, 2019	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$50.00
Hearing Date: March 20, 2019	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

Kevin K. Forrester

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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



Kevin K. Forrester
Sole Public Arbitrator

4/4/2019

Signature Date

April 23, 2019

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