

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

Case Number: [REDACTED]

vs.

Respondent

Ameriprise Financial Services, Inc.

Hearing Site: Hartford, Connecticut

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [REDACTED] Erica Harris, Esq. and Dochter Kennedy, MBA, J.D., AdvisorLaw LLC, Westminster, Colorado.

For Respondent Ameriprise Financial Services, Inc.: Howard Klausmeier, Esq. Ameriprise Financial Services, Inc., Minneapolis, Minnesota.

CASE INFORMATION

Statement of Claim filed on or about: June 13, 2018.

[REDACTED] signed the Submission Agreement: June 13, 2018.

Statement of Answer filed by Respondent on or about: August 3, 2018.

Ameriprise Financial Services, Inc. signed the Submission Agreement: August 3, 2018.

CASE SUMMARY

Claimant asserted the following cause of action: expungement.

Respondent had no objection to and concurred in Claimant's request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of occurrence numbers [REDACTED] and [REDACTED] 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 requested that an award be issued that recommends the expungement of the subject customer complaints from Claimant's CRD record.

OTHER ISSUES CONSIDERED AND DECIDED

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

Claimant provided the FINRA Office of Dispute Resolution with proof that he served the customer in the underlying complaints in occurrence numbers [REDACTED] and [REDACTED] with notice of his expungement request and notice of the customer's right to participate and testify at the expungement hearing. The customer did not participate in the expungement hearing and did not contest the request for expungement.

The Arbitrator conducted a recorded in-person hearing on January 17, 2019 so the parties could present oral argument and evidence on Claimant [REDACTED] request for expungement of occurrence numbers [REDACTED] and [REDACTED].

At the hearing, Claimant withdrew his request for \$1.00 in compensatory damages.

The Arbitrator reviewed the BrokerCheck® Report for Claimant Mark Dean Brannigan.

The Arbitrator noted that Claimant [REDACTED] did not previously file a claim requesting expungement of occurrence numbers [REDACTED] and [REDACTED].

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, Claimant's submissions, Claimant's testimony, and Claimant's BrokerCheck® Report.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and post-hearing submissions, 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] by the Central Registration Depository ("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 claim, allegation, or information is factually impossible or clearly erroneous.

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

Claimant's Statement of Claim requested expungement from his CRD record with respect to two separate complaints made by the same person ("customer") in 2007. Occurrence number [REDACTED] (Disclosure 3 on Claimant's Broker Check Report) claimed mismanagement of customer's portfolio, suspect timing, questionable advice, and failure to follow through on communications.

The documents submitted and testimony given by Claimant – including the initial financial advisory proposal, and subsequent mail log and smartpad notes (Exhs. 7-9)– contradict the customer's claims regarding mismanagement and failure to follow through on commitments. The review undertaken by the employer broker dealer's internal compliance department and the various attachments in that department's response to the customer (Exhs. 3, 25) confirms that Claimant did not mismanage customer's account, and was thorough in following through on commitments in connection with the customer's financial plan. The Arbitrator finds that the customer's claims under occurrence number [REDACTED] are clearly erroneous.

2. The Arbitrator recommends the expungement of all references to occurrence number [REDACTED] by the Central Registration Depository ("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 claim, allegation, or information is factually impossible or clearly erroneous.

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

Claimant's Statement of Claim requested expungement from his CRD record with respect to two separate complaints made by the same person ("customer") in 2007. Occurrence [REDACTED] (Disclosure 2 in said BrokerCheck report) claimed VUL insurance purchased by the customer may not have been suitable for his financial goals and objectives.

Claimant produced several documents relating to the customer's financial condition and investment experience and the comprehensive financial planning undertaken on behalf of the customer (Exhs. 5-6, 9-13, and 16-18) that confirm the VUL insurance policy purchased by customer was suitable for the financial goals and objectives identified by the customer. The inquiries made by the Connecticut Insurance Department in response to a complaint from the customer, and the responses submitted by Claimant (Exh. 26) further substantiate that there was no unsuitability with respect to this particular product. Accordingly, the Arbitrator finds that the unsuitability allegation set out in occurrence number [REDACTED] is clearly erroneous.

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 events giving rise to the dispute. Accordingly, as a party, Ameriprise Financial Services, Inc. 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, 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: October 10, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: January 17, 2019	1 session

Total Hearing Session Fees	= \$ 100.00
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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

Robert Titus

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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/ Robert B. Titus

Robert Titus
Sole Public Arbitrator

January 29, 2019

Signature Date

January 30, 2019

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