

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

---

In the Matter of the Arbitration Between:

Claimant

Case Number: [REDACTED]

vs.

Respondent

Hearing Site: Bismarck, North Dakota

LPL Financial LLC

---

Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant [REDACTED] ("Claimant"): Docthor Kennedy, Esq. and Harris Freedman, Esq., AdvisorLaw LLC, Westminster, Colorado.

For Respondent LPL Financial LLC ("Respondent"): Brian Harlan, Esq., LPL Financial, San Diego, California.

**CASE INFORMATION**

Statement of Claim filed on or about: January 7, 2019.  
Claimant signed the Submission Agreement: January 7, 2019.

Statement of Answer filed by Respondent on or about: March 4, 2019.  
Respondent signed the Submission Agreement: March 8, 2019.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted a claim seeking expungement of customer dispute information from his registration records maintained by the Central Registration Depository ("CRD").

In the Statement of Answer, Respondent denied any wrongdoing to the extent any is alleged but did not oppose Claimant's request for expungement.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers [REDACTED] and [REDACTED] \$1.00 in compensatory damages, and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that Claimant's request for \$1.00 in compensatory damages be denied.

On record at the hearing, Claimant withdrew his request for \$1.00 in compensatory damages.

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

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

On or about July 30, 2019, Claimant filed a copy of the letters dated June 28, 2019 sent to the customers for references Occurrence Numbers [REDACTED] and [REDACTED] which included a copy of the Statement of Claim, expungement hearing date and time, and advised the customers of the opportunity to participate in the expungement hearing. On or about July 15, 2019, Claimant filed an Affidavit of Service for the letters sent to the customers.

The Arbitrator conducted a recorded telephonic hearing on July 30, 2019 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and did not contest the request for expungement. The customers did not participate in the expungement hearing.

The Arbitrator reviewed the BrokerCheck® Report for Claimant and 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 customers not opposing the request for expungement. The Arbitrator also noted that Claimant did not contribute to the settlement amounts.

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

In recommending expungement the Arbitrator relied upon the following documentary or other evidence: Statement of Claim, exhibits, and the oral testimony given at the hearing.

### **AWARD**

After considering the pleadings the testimony and the evidence presented at the hearing, and the post-hearing submission, 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 Numbers [REDACTED] and [REDACTED] from the registration records maintained by the CRD, for Claimant [REDACTED] (CRD# [REDACTED] with the understanding that, pursuant to Notice to Members 04-16, Claimant [REDACTED]

[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 false.

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

**Occurrence Number [REDACTED]**

The customer, an experienced investor, did not place a stop loss order as he alleged. He did not give the number of shares or the price of the stock and, as a sophisticated investor, he knew that information was necessary in order to place a stop loss order. He also did not complain for over a year. Based on these facts, I find the claim is false.

**Occurrence Number [REDACTED]**

The customer was an aggressive growth oriented trader who decided on his own to make the purchase at issue. His claim of unsuitability is false because Claimant did not recommend an unsuitable investment. The customer made the decision on his own and was an experienced investor who assumed the risk so the allegation of unsuitability is false.

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
--------------------------	------------

*\*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

**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 2, 2019 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00  
Hearing Date: July 30, 2019 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**

Helen Marinak Blohm

-

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**

***Helen Marinak Blohm***

\_\_\_\_\_  
Helen Marinak Blohm  
Sole Public Arbitrator

08/09/2019

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

August 09, 2019

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