

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

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In the Matter of the Arbitration Between:

Claimant

██████████

Case Number

██████████

vs.

Respondent

Raymond James Financial Services, Inc.

Hearing Site: Dallas, Texas

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████ ("Claimant"): Dochter Kennedy, Esq. and Christopher Cummins, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Raymond James Financial Services, Inc. ("Respondent"): Stanton A. Fears, Esq., Raymond James Financial Services, Inc., St. Petersburg, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: December 28, 2018.  
Amended Statement of Claim filed on or about: May 16, 2019.  
Claimant signed the Submission Agreement: December 21, 2018.

Statement of Answer filed by Respondent on or about: January 17, 2019.  
Respondent signed the Submission Agreement: January 7, 2019.

**CASE SUMMARY**

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

In the Statement of Answer, Respondent did not oppose Claimant's expungement request.

**RELIEF REQUESTED**

In the Statement of Claim and Amended Statement of Claim, Claimant requested expungement of Occurrence Number ██████████ from his registration records maintained by the CRD, \$1.00 in compensatory damages, and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not request relief.

At the expungement hearing, Claimant withdrew his request for \$1.00 in damages and other relief.

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

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

On or about April 3, 2019, in compliance with the Initial Prehearing Conference Order, Claimant submitted a copy of the letter sent to one of the customers related to Occurrence Number [REDACTED] ("Mr. S"), providing him with the Statement of Claim, notice of the date and time of the expungement hearing, and notice of the option to participate in the hearing. On or about April 5, 2019, Claimant filed an Affidavit of Service for the letter sent to Mr. S.

The Arbitrator conducted a recorded, telephonic hearing on May 15, 2019 so the parties could present oral argument and evidence on Claimant's request for expungement. On record at the hearing, Claimant advised that a different customer, Ms. H, who represented all of the customers related to Occurrence Number [REDACTED] other than Mr. S, had not been provided with notice of the expungement hearing. On the record, the Arbitrator granted Claimant's oral motion for leave to file an Amended Statement of Claim identifying Ms. H and the trusts and a company she represents as additional customers related to Occurrence Number [REDACTED]. Also, on record and in an order dated May 15, 2019, the Arbitrator ordered Claimant to provide notice to Ms. H, in her individual capacity and as a trustee and executive, and to submit proof of service. The Arbitrator continued the expungement hearing to June 28, 2019 in order to allow Ms. H an opportunity to participate.

On or about May 16, 2019, in accordance with the Arbitrator's order at the May 15, 2019 hearing, Claimant filed the Amended Statement of Claim.

On or about May 24, 2019, in compliance with the Arbitrator's order dated May 15, 2019, Claimant submitted proof of service on Ms. H, including delivery confirmation, and copies of the letters sent to Ms. H, which provided her with the Amended Statement of Claim, notice of the date and time of the continued expungement hearing, and notice of the option to participate in the hearing.

The Arbitrator conducted a second recorded, telephonic hearing on June 28, 2019, so the parties could continue to present oral argument and evidence on Claimant's request for expungement.

Neither Respondent nor any of the customers participated in either 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 settlement was not conditioned on any customer not opposing the request for expungement and that Claimant did not contribute to the settlement amount.

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: Exhibits 1 through 7 offered at the expungement hearing (account forms and client agreements, emails, the Statement of Answer filed in the underlying FINRA arbitration, and settlement terms contained in the Abatement of Loan Agreement and Release) and Claimant's testimony.

### **AWARD**

After considering the pleadings and 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:

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 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 (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:

Claimant's testimony and documentation provided evidence that the Customers were fully informed, knowledgeable, and in communication with Claimant regarding the characteristics of the products. No investor protection will be impacted by this expungement, based on the documents submitted and the settlement terms reviewed, along with Claimant's direct testimony.

### **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 @ \$50.00/session	= \$	50.00
Pre-hearing conference: April 1, 2019	1 session	
Two (2) hearing sessions on expungement request @ \$50.00/session	= \$	100.00
Hearing Date: May 15, 2019	1 session	
June 28, 2019	1 session	

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Total Hearing Session Fees	= \$	150.00
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The Arbitrator has assessed \$150.00 of the hearing session fees to Claimant.

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

**ARBITRATOR**

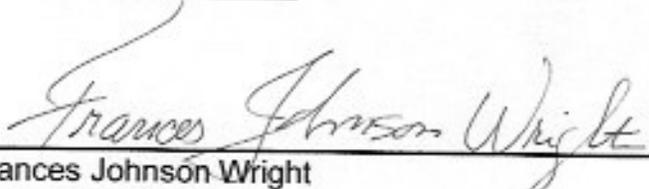
Frances Johnson Wright

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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**

  
\_\_\_\_\_  
Frances Johnson Wright  
Sole Public Arbitrator

7/16/19  
\_\_\_\_\_  
Signature Date

July 16, 2019

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