

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

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In the Matter of the Arbitration Between:

Claimant

██████████

Case Number: ██████████

vs.

Respondent

LPL Financial LLC

Hearing Site: Kansas City, Missouri

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████ (“Claimant”): Dochter Kennedy, Esq. and Erica Harris, Esq., AdvisorLaw, LLC, Westminster, Colorado.

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

**CASE INFORMATION**

Statement of Claim filed on or about: March 30, 2018.  
Claimant signed the Submission Agreement: March 30, 2018.

Statement of Answer filed on or about: May 22, 2018.  
Respondent signed the Submission Agreement: April 23, 2018.

**CASE SUMMARY**

Claimant asserted a claim seeking expungement of a customer complaint (“Customer Complaint”) from his registration records maintained by the Central Registration Depository (“CRD”).

In the Statement of Answer, Respondent denied any wrongdoing to the extent it is alleged in the Statement of Claim and stated that it had no opposition to Claimant’s application for expungement.

**RELIEF REQUESTED**

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

In the Statement of Answer, Respondent opposed the imposition of any monetary

award against it, even in the nominal (\$1.00) amount requested.

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

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

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

Claimant submitted a copy of the Statement of Claim and notice of the expungement hearing to the customer in the Customer Complaint ("Customer"), advising the Customer of the opportunity to participate in the expungement hearing, on or about October 9, 2018.

Claimant submitted an Affidavit of Service of the Statement of Claim to the Customer, on or about October 17, 2018.

The Arbitrator conducted a recorded, telephonic hearing on November 14, 2018, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing but did not contest the request for expungement. The Customer did not participate in the expungement hearing.

The Arbitrator reviewed Claimant's BrokerCheck® Report. The Arbitrator found that there was not a settlement with respect to Occurrence Number [REDACTED]. Accordingly, the Arbitrator did not review a settlement agreement.

The Arbitrator found 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: the pleadings submitted by the parties, Claimant's testimony, and Respondent's concurrence.

### **AWARD**

After considering the pleadings, the testimony, and the 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 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 [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 findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous;  
and

The claim, allegation, or information is false.

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

Claimant’s recommendations to the Customer were appropriate given her circumstances. She disliked the state tax laws but they were explained to her. Claimant was not at fault. Claimant has an excellent record over several decades and his work for the Customer was of the same high quality that his record suggests.

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 that employed the associated person at the time of the events 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: August 6, 2018 1 session	
One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: November 14, 2018 1 session	
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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**

Philip J. Glick

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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**

"/Philip J. Glick/"

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Philip J. Glick  
Sole Public Arbitrator

1/30/19

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Signature Date

01/30/19

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