

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

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In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number

██████████

vs.

Respondent

MidAmerica Financial Services, Inc.

Hearing Site: Baltimore, Maryland

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██: Docthor Kennedy, MBA, J.D. and Michael O’Gara, J.D., AdvisorLaw LLC, Broomfield, Colorado.

For Respondent MidAmerica Financial Services, Inc. (“MFS”): Bruce Deemer, MidAmerica Financial Services, Inc., Joplin, Missouri.

**CASE INFORMATION**

Statement of Claim filed on or about: December 19, 2016.

████████████████████ signed the Submission Agreement: December 19, 2016.

Statement of Answer filed by Respondent on or about: March 17, 2017.

Respondent MFS did not sign the Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: defamation; wrongful termination; and expungement. The causes of action relate to the alleged defamatory nature of the reasons for termination placed by Respondent on Claimant’s Central Registration Depository (“CRD”) Form U5, as they relate to: 1) disclosure of Claimant’s outside securities account to Respondent; 2) an alleged customer’s (“Customer”) complaint (“the Letter”); and 3) information entered by Claimant on a mutual fund application.

Unless specifically admitted in the Statement of Answer, Respondent denied having any knowledge over the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested: an award granting expungement of the Form U5 from Claimant's CRD record with specific reference to expungement occurring on the basis that the statements are defamatory in nature or, alternatively, an amendment to the Claimant's CRD record; an award of damages in the amount of \$1.00 for Respondent's part in contributing to Claimant's injury and any other damages the Arbitrator deemed just and proper in light of the circumstances and Respondent's ability to pay damages; and, any such other relief as the Arbitrator deemed just and proper.

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

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

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

Respondent did not file with FINRA Office of Dispute Resolution a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and, having answered the claim, is bound by the determination of the Arbitrator on all issues submitted.

Respondent MFS did not appear at the evidentiary hearing. Upon review of the file and the representations made by/on behalf of the Claimant, the Arbitrator determined that Respondent MFS has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the Code.

The Arbitrator conducted a recorded in-person hearing on August 23, 2017, so the parties could present oral argument and evidence on Claimant's request for expungement. Respondent did not participate in the expungement hearing.

In recommending expungement the Arbitrator reviewed and/or relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report; the Letter from the Customer to Respondent MFS; and Claimant's written disclosure allegedly ignored by Respondent.

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

The Arbitrator has provided an explanation of their decision in this award. The explanation is for the information of the parties only and is not precedential in nature.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the recorded

in-person hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of the Reason for Termination Explanation from the Form U5 filed by Midamerica Financial Services on June 10, 2015 for Claimant [REDACTED] (CRD# [REDACTED]) and maintained by the Central Registration Depository (CRD). The Panel recommends that the Reason for Termination be changed to "Voluntary" and the Termination Explanation appear blank.

In addition, the Panel recommends that the answer to Question 7F(1) be changed from Yes to No and the accompanying Termination Disclosure Reporting Page be deleted in its entirety.

The above recommendations are based on the defamatory nature of the information and shall apply to all subsequent disclosures concerning this event, including but not limited to, the Amended Form U4 filed by Supreme Alliance LLC on August 17, 2015.

The Form U5 is not automatically amended to include the changes indicated above. Claimant must forward a copy of this Award to FINRA's Registration and Disclosure Department for review.

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

The claim, allegation, or information is false. The allegations made by Respondent on Claimant's Form U5 were knowingly false at a time when Respondent was being investigated by FINRA and may have been made to conceal wrongdoing by Respondent

2. Claimant's request for an award of compensatory damages in the amount of \$1.00 is denied.

3. 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 MFS 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: May 4, 2017	1 session
One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: August 23, 2017	1 session
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Total Hearing Session Fees	= \$ 100.00

The Arbitrator has assessed the total hearing session fees of \$100.00 to Claimant.

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

**ARBITRATOR**

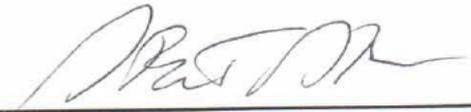
Steven T. Stern

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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**



Steven T. Stern  
Sole Public Arbitrator

9/27/17

Signature Date

September 27, 2017

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