

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Austin Wayne Morton

Case Number: 19-03212

vs.

Respondent
Edward Jones

Hearing Site: Oklahoma City, Oklahoma

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Associated Person vs. Member

The evidentiary hearing was conducted partially by videoconference.

REPRESENTATION OF PARTIES

For Claimant Austin Wayne Morton (“Claimant”): Joe E. White, Jr., Esq., Kate C. White, Esq., Matthew P. Cyran, Esq., and Nick Porter, Esq., White & Weddle, P.C., Oklahoma City, Oklahoma and Jon Jorge Aras, Esq., Levan Legal, LLC, Philadelphia, Pennsylvania.

For Respondent Edward Jones (“Respondent”): Jonathan W. Hackbarth, Esq., Quarles & Brady LLP, Milwaukee, Wisconsin and Kelli A. Edson, Esq., Quarles & Brady LLP, Tampa, Florida.

CASE INFORMATION

Statement of Claim filed on or about: October 25, 2019.
Claimant signed the Submission Agreement: October 25, 2019.

Statement of Answer filed on or about: December 16, 2019.
Respondent signed the Submission Agreement: December 16, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim alleging that the Form U5 filed by Respondent, as part of registration records maintained by the Central Registration Depository (“CRD”), is defamatory in nature and the following causes of action: defamation and injurious falsehood. The causes of action arise out of Claimant’s allegation that he was injured as a result of Respondent’s publication on his Form U5.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of the Form U5 filed by Respondent and relevant portions of the related Form U4, actual and punitive damages of no less than \$1,700,000.00, and any other relief as the Panel deems just and equitable.

In the Statement of Answer, Respondent requested that the Panel deny Claimant's claims in their entirety, assess all forum fees and hearing session fees against Claimant, and such further relief as the Panel deems just.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On October 6, 2021, Claimant filed a request for an explained decision. On October 8, 2021, Respondent filed an opposition to the request for an explained decision. The Panel denies the Claimant's request for an explained decision herein.

At the evidentiary hearing, after Claimant's case-in-chief, Respondent moved for dismissal on the basis of statute of limitations, estoppel, and qualified immunity. The Panel denied the motion.

On November 5, 2021, Claimant submitted correspondence that his request for relief in the Statement of Claim included a request for expungement of Occurrence Number 1912675 from Claimant's CRD, as part of his request for "just and equitable" relief. Respondent submitted correspondence on the same day asking the that the Panel deny Claimant's request to recharacterize or amend his claim. The Panel herein declines to consider Claimant's post-hearing request for expungement of Occurrence Number 1912675.

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to Claimant the sum of \$160,230.00 in compensatory damages.
2. The Panel recommends the expungement of the Termination Explanation in Section 3 of Claimant Austin W. Morton's (CRD Number 5538108) Form U5 filed by Edward Jones on December 7, 2016 and maintained by the CRD. The Reason for Termination shall remain the same and the Termination Explanation shall be deleted in its entirety and replaced with

the following language: "Claimant was an employee at will." This directive shall apply to all references to the Termination Explanation.

The Panel further recommends the expungement of all references to Occurrence Number 1912676 maintained by the CRD for Claimant Austin W. Morton. Any "Yes" answers should be changed to "No," as applicable.

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:

GR closed his account with Respondent by withdrawing all assets on September 13, 2016. The proceeds were deposited on September 16, 2016 in his personal checking account and comingled with its existing balance. GR made a loan to Claimant by check dated October 9, 2021. Claimant's grandfather had been a close friend of GR and GR had known Claimant all of Claimant's life. Respondent's expert witness testified that as of the closing of GR's account, GR ceased being a client of Respondent.

The Panel recommends expungement based on the defamatory nature of the information. The above recommendations are made with the understanding that the registration records are not automatically amended. Claimant Austin W. Morton must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure Department for review.

3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee	= \$	2,000.00
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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	= \$	3,025.00
Member Process Fee	= \$	6,175.00

Hearing Session Fees and Assessments

The Panel 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), which lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) pre-hearing sessions with the Panel @ \$1,400.00/session		= \$	4,200.00
Pre-Hearing Conferences: February 25, 2020	1 session		
February 23, 2021	1 session		
October 18, 2021	1 session		
Eleven (11) hearing sessions @ \$1,400.00/session		= \$	15,400.00
Hearings: October 26, 2021	2 sessions		
October 27, 2021	2 sessions		
October 28, 2021	2 sessions		
October 29, 2021	3 sessions		
October 30, 2021	2 sessions		
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Total Hearing Session Fees		= \$	19,600.00

The Panel has assessed \$9,800.00 of the hearing session fees to Claimant.

The Panel has assessed \$9,800.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

James W. Kerr, Jr.	-	Public Arbitrator, Presiding Chairperson
Vicki J. Limas	-	Public Arbitrator
Paula Patrick Kerrigan	-	Non-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.

Concurring Arbitrators' Signatures

James W. Kerr, Jr.

James W. Kerr, Jr.
Public Arbitrator, Presiding Chairperson

11/12/2021

Signature Date

Vicki J. Limas

Vicki J. Limas
Public Arbitrator

11/12/2021

Signature Date

Paula Patrick Kerrigan

Paula Patrick Kerrigan
Non-Public Arbitrator

11/12/2021

Signature Date

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November 12, 2021

Date of Service (For FINRA Dispute Resolution Services use only)