

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Kevin C. Fretz

Case Number: 19-03579

vs.

Respondent  
LPL Financial LLC

Hearing Site: Hartford, Connecticut

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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 by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Kevin C. Fretz: Joseph Allgor, Esq., Herskovits PLLC, New York, New York.

For Respondent LPL Financial LLC: John Stewart, Esq., Baritz & Colman LLP, Boca Raton, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: December 4, 2019.

First Amended Statement of Claim filed on or about: July 29, 2020.

Revised First Amended Statement of Claim filed on or about: October 27, 2020.

Claimant signed the Submission Agreement: December 4, 2019.

Statement of Answer filed by Respondent on or about: February 28, 2020

Answer to First Amended Statement of Claim filed by Respondent on or about: October 20, 2020.

Respondent signed the Submission Agreement: March 1, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted a claim seeking reformation of his Form U5 and expungement of customer dispute information from registration records maintained by the Central Registration Depository (“CRD”).

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

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

In the Answer to First Amended Statement of Claim, Respondent opposed expungement of Occurrence No. 2066113 and took no position with respect to Claimant's request for expungement of Occurrence Numbers 2065088, 2046973, 1457114.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested reformation of the Form U5 at issue; expungement from the Central Registration Depository of CRD Occurrence Numbers 2046973, 2048111 and 1457114 and all references to the underlying disclosures; arbitral findings in accordance with FINRA Rule 2080; compensatory damages, including general or special damages, and punitive damages, each in an amount to be determined at the arbitration hearing; reasonable attorneys' fees and other expenses related to the arbitration; and all other and further relief that is just and proper

In the First Amended Statement of Claim, Claimant requested expungement from the Central Registration Depository of CRD Occurrence Numbers 2065088, 2066113, 2048111 and 1457114 and all references to the underlying disclosures; arbitral findings in accordance with FINRA Rule 2080; compensatory damages of \$1.00; and all other and further relief that is just and proper.

In The Revised First Amended Statement of Claim, Claimant requested expungement from the Central Registration Depository of CRD Occurrence Numbers 2046973, 2065088, 2066113 and 1457114 and all references to the underlying disclosures; arbitral findings in accordance with FINRA Rule 2080; compensatory damages of \$1.00; and all other and further relief that is just and proper

In the Statement of Answer, Respondent requested dismissal of the Statement of Claim with prejudice; denial of any and all claims for monetary damages, whether compensatory, punitive, general, special, or any other damage claim; attorneys' fees and costs incurred in connection with defense of this matter; and such further relief as the Panel deems just and proper.

In the Answer to the First Amended Statement of Claim, Respondent opposed expungement of Occurrence No. 2066113 and took no position with respect to Claimant's request for expungement of Occurrence Numbers 2065088, 2046973, 1457114.

At the close of the hearing, Claimant withdrew the request for \$1.00 in damages.

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

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On December 19, 2020, Claimant advised that the customers in Occurrence Numbers 2066113, and 2046973 were served with the Statement of Claim and with notice of the date and time of the expungement hearing. On December 20, 2020, Claimant advised that the customer in Occurrence Number 2065088 was served with the Statement of Claim and with notice of the date and time of the expungement hearing.

On February 3, 2021, Claimant advised that the customer in Occurrence Number 1457114 is deceased.

The Arbitrator conducted a recorded hearing by videoconference on January 19, 2021 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing, opposed expungement of Occurrence No. 2066113, and took no position with respect to Claimant's request for expungement of Occurrence Numbers 2065088, 2046973, and 1457114.

The customer in Occurrence No. 2046973 participated in the expungement hearing and opposed the expungement request. The customers in Occurrence Numbers 2066113 and 265088 did not participate in the expungement hearing. The Arbitrator found that the customers in Occurrence Numbers 2066113 and 265088 had notice of the expungement request and hearing.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the expungement hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's request for expungement of Occurrence Numbers 2066113, 2046973, 1457114, and 265088 from his registration records maintained by the CRD is denied.
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 Dispute Resolution Services assessed a filing fee\* for each claim:

Initial Claim Filing Fee	= \$ 1,575.00
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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 LPL Financial LLC is assessed the following:

Member Surcharge	= \$ 1,900.00
Member Process Fee	= \$ 3,750.00

**Postponement Fees**

Postponements granted during these proceedings for which fees were assessed or waived:

December 9, 2020, postponement requested by the parties	= \$ 50.00
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Total Postponement Fees	= \$ 50.00

The Arbitrator has assessed the total postponement fees to Claimant.

**Discovery-Related Motion Fee**

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) arbitrator @ \$200.00/decision	= \$ 200.00
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Total Discovery-Related Motion Fees	= \$ 200.00

The Arbitrator has assessed the total discovery-related motion fees to Claimant.

**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, including a pre-hearing conference with the Arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ \$1,125.00/session Pre-hearing Conference: April 1, 2020 1 session	= \$ 1,125.00
One (1) hearing session on expungement request @ \$50.00/session Hearing Date: January 19, 2021 1 session	= \$ 50.00
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Total Hearing Session Fees	= \$ 1,175.00

The Arbitrator has assessed the total hearing session fees to Claimant.

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

**ARBITRATOR**

Robert Titus

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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**

***Robert Titus***

Robert Titus  
Sole Public Arbitrator

**02/08/2021**

Signature Date

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.

February 09, 2021

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