

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Kyra L. Kizirian

Case Number: 19-03679

vs.

Respondents

LPL Financial LLC

Keith Andrew Schmidt

Eric T. Young

Zions Capital Advisors, Inc.

Jill Bell

Kyle Bonura

Lisa L. Evans

Hearing Site: San Francisco, California

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, Associated Persons, and Non-Members

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

Claimant Kyra L. Kizirian appeared pro se.

For Respondents LPL Financial LLC (“LPL Financial”), Keith Andrew Schmidt (“Schmidt”), and Eric T. Young (“Young”): Thomas F. Barnett, Esq., LPL Financial LLC, Boston, Massachusetts.

Hereinafter, LPL Financial, Schmidt, and Young will collectively be referred to as “Respondents.”

Respondent Zions Capital Advisors, Inc. (“Zions Capital Advisors”) did not enter an appearance in this matter.

Respondent Jill Bell (“Bell”) did not enter an appearance in this matter.

Respondent Kyle Bonura (“Bonura”) did not enter an appearance in this matter.

Respondent Lisa L. Evans (“Evans”) did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: December 31, 2019.
Amended Statement of Claim filed on or about: January 13, 2020.
Claimant signed the Submission Agreement: December 31, 2019.

Statement of Answer filed by Respondents on or about: March 3, 2020.
LPL Financial signed the Submission Agreement: March 3, 2020.
Schmidt signed the Submission Agreement: February 11, 2020.
Young signed the Submission Agreement: February 12, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: libel or slander on Form U5; breach of privacy; wrongful termination; violation of CA Final Paycheck law; and age, race, national origin and gender discrimination.

In the Amended Statement of Claim, Claimant removed her discrimination claims and asserted the following causes of action: libel or slander on Form U5; breach of privacy; wrongful termination; and violation of CA Final Paycheck law. The causes of action relate to the termination referenced in Occurrence Number 2043372 maintained by the Central Registration Depository ("CRD").

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

RELIEF REQUESTED

In the Statement of Claim and the Amended Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 2043372 from her CRD records;
2. Compensatory damages in the amount of \$264,381.68;
3. Punitive damages; and
4. Any other costs as the Panel may deem appropriate.

In the Statement of Answer, Respondents requested:

1. Dismissal of any and all claims and allegations against Respondents;
2. Denial of any and all requests for damages, costs, and/or fees against Respondents;
3. Arbitration costs and expenses awarded to Respondents; and
4. Such other relief as the Panel may deem appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

Zions Capital Advisors is not a member of FINRA and Bell, Bonura, and Evans are not associated persons. Therefore, the Panel made no determination with respect to the claims against Zions Capital Advisors, Bell, Bonura, and Evans.

On October 15, 2020, Young filed a motion to dismiss Claimant's employment related claims against him. On October 29, 2020, Claimant filed opposition to Young's motion. Young did not submit a reply to Claimant's opposition. On December 17, 2020, the Panel denied the motion.

The Panel conducted a recorded hearing by videoconference on February 9, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement. Claimant withdrew all monetary damage claims and waived all damages against Respondents during the evidentiary hearing. Claimant and Respondents mutually waived all costs against each other during the evidentiary hearing.

Respondents participated in the expungement hearing and did not oppose the request for expungement.

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:

The Panel recommends the expungement of the Reason for Termination and Termination Explanation in Section 3 of Claimant Kyra L. Kizirian's (CRD Number 5731761) Form U5 filed by LPL Financial LLC (CRD Number 6413) on August 21, 2019 and maintained by the CRD. The Reason for Termination shall be changed to "Voluntary" and the Termination Explanation shall be deleted in its entirety and appear blank. This directive shall apply to all references to the Reason for Termination and Termination Explanation.

The Panel further recommends the expungement of all references to Occurrence Number 2043372 from the registration records maintained by the CRD for Claimant Kyra L. Kizirian. Any "Yes" answers should be changed to "No," as applicable.

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. Kyra L Kizirian must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure (CRED) Department for review.

FEES

Pursuant to the Code of Arbitration Procedure ("Code"), the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee	= \$ 1,425.00
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**The filing fee is made up of a non-refundable and a refundable portion.*

Pursuant to Armendariz v. Foundation Health Psychcare Services, Inc., 24 Cal. 4th 83 (2000) Claimant is assessed a \$200 initial claim filing fee. The balance of the non-refundable portion of the filing fee, in the amount of \$100 is assessed to LPL Financial.

FINRA Dispute Resolution Services previously deferred Claimant's initial filing fee of \$ 200.00. Upon conclusion of the matter, the Panel determined to waive the fee.

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 event giving rise to the dispute. Accordingly, as a party, LPL Financial is assessed the following:

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

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:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: January 4, 2021	1 session	
Three (3) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	3,375.00
Pre-Hearing Conferences: April 28, 2020	1 session	
September 1, 2020	1 session	
December 17, 2020	1 session	
Two (2) hearing sessions @ \$1,125.00/session	= \$	2,250.00
Hearings: February 9, 2021	2 sessions	
Total Hearing Session Fees	= \$	6,075.00

Pursuant to Armendariz v. Foundation Health Psychcare Services, Inc., Cal. 4th 83 (2000), the Panel has assessed \$3,825.00 of the hearing sessions fees to LPL Financial.

The Panel has assessed \$1,125.00 of the hearing session fees to Young.

The Panel has waived \$1,125.00 of the hearing sessions fees.

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

ARBITRATION PANEL

Jonathan H. Krotinger	-	Public Arbitrator, Presiding Chairperson
Lester Friedman	-	Public Arbitrator
Wendi Lee Eckardt	-	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

Jonathan H. Krotinger

Jonathan H. Krotinger
Public Arbitrator, Presiding Chairperson

03/05/2021

Signature Date

Lester Friedman

Lester Friedman
Public Arbitrator

03/04/2021

Signature Date

Wendi Lee Eckardt

Wendi Lee Eckardt
Non-Public Arbitrator

03/06/2021

Signature Date

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March 10, 2021

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