

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
David Blair Thompson

Case Number: 20-00511

vs.

Respondent
TD Private Client Wealth, LLC

Hearing Site: Charlotte, North Carolina

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

This case was decided by a majority-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant David Blair Thompson: Brian J. Neville, Esq. and Matthew T. Plant, Esq., Lax & Neville, LLP, New York, New York.

For Respondent TD Private Client Wealth, LLC: Ira G. Rosenstein, Esq., Morgan, Lewis & Bockius, LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 12, 2020.

David Blair Thompson signed the Submission Agreement: February 12, 2020.

Statement of Answer filed by Respondent on or about: May 1, 2020

TD Private Client Wealth, LLC signed the Submission Agreement: February 7, 2022

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: violations of FINRA Rule 2010; breach of implied Covenant of Good Faith and Fair Dealing; unjust enrichment; and defamation by implication. The causes of action relate to Claimant's termination of employment with Respondent, as well as information reported by Respondent on Claimant's Form U5 registration records maintained by the Central Registration Depository ("CRD").

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: damages of at least \$10,000,000.00, reformation of Claimant's Form U5; defamation damages of \$5,000,000.00; punitive damages; a determination that Thompson is not subject to any contractual restrictions on his activities; any other equitable relief which the Panel deems just, including recovery of attorneys' fees as a matter of equity to make him whole, costs, expert witness expenses, and forum fees; and a regulatory referral to FINRA regarding Respondent's "internal investigation" activities after Claimant complained to management of compliance violations.

In the Statement of Answer, Respondent requested that Claimant's claims be denied in their entirety.

At the hearing, Claimant made an ore tenus request for expungement of Respondent's reporting on his Form U5 registration records maintained by CRD. Please see the Other Issues Considered and Decided section of this Award for more information.

OTHER ISSUES CONSIDERED AND DECIDED

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

At the hearing, the parties' stated on the record that they reached a settlement. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

At the hearing, after notice of the parties' settlement, Claimant requested expungement.

The Panel conducted a recorded hearing by videoconference on January 28, 2022, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and took no position as to Claimant's expungement request.

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:

Claimant's request for expungement or amendment of his Form U5 and Form U5 Disclosure Reporting page is denied.

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 = \$ 2,250.00

**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 = \$ 4,025.00

Member Process Fee = \$ 7,000.00

Late Pre-Hearing Cancellation Fees

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

February 8, 2021, cancellation requested by parties = \$ 100.00

Total Late Pre-Hearing Cancellation Fees = \$ 100.00

Pursuant to the parties’ agreement, the Panel has assessed the total late pre-hearing cancellation fees to Respondent.

Postponement Fees

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

March 8-21, 2021, postponement requested by the parties = \$ WAIVED

January 27, 2022, postponement requested by the parties = \$ 1,500.00

Total Postponement Fees = \$ 1,500.00

Pursuant to the parties’ agreement, the Panel has assessed the total postponement fees to Respondent.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

January 27, 2022, cancellation requested by the parties = \$ 1,800.00

Total Last-Minute Cancellation Fees = \$ 1,800.00

Pursuant to the parties' agreement, the Panel has assessed the total last-minute cancellation fees to Respondent.

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: August 27, 2021	1 session	
Three (3) pre-hearing sessions with the Panel @ \$1,500.00/session	= \$	4,500.00
Pre-Hearing Conferences: June 22, 2020	1 session	
February 1, 2021	1 session	
January 21, 2022	1 session	
Four (4) hearing sessions @ \$1,500.00/session	= \$	6,000.00
Hearings: January 25, 2022	2 sessions	
January 26, 2022	2 sessions	
One (1) hearing session on expungement request @ \$1,500.00/session	= \$	1,500.00
Hearing: January 28, 2022	1 session	
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Total Hearing Session Fees	= \$	12,450.00

The Panel has assessed \$1,500.00 of the hearing session fees to Claimant.

Pursuant to the parties' agreement, the Panel has assessed \$10,950.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Douglas Earl McLaren	-	Public Arbitrator, Presiding Chairperson
Leonard E. Benade	-	Public Arbitrator
Norman Lee Gunn, Jr.	-	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

Douglas Earl McLaren

Douglas Earl McLaren
Public Arbitrator, Presiding Chairperson

02/09/2022

Signature Date

Leonard E. Benade

Leonard E. Benade
Public Arbitrator

02/09/2022

Signature Date

Norman Lee Gunn, Jr.

Norman Lee Gunn, Jr.
Non-Public Arbitrator

02/09/2022

Signature Date

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February 10, 2022

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