

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Thomas Howes

Case Number: 20-00680

vs.

Respondent
NYLife Securities LLC

Hearing Site: Washington, D.C.

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

REPRESENTATION OF PARTIES

Claimant Thomas Howes appeared pro se.

For Respondent NYLife Securities LLC: Jeffery A. Sturgeon, Esq., Baker & McKenzie LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 27, 2020.
Thomas Howes signed the Submission Agreement: April 7, 2020.

Revised Statement of Answer filed by Respondent on or about: August 31, 2020.
NYLife Securities LLC signed the Submission Agreement: July 30, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following cause of action: expungement.

Unless specifically admitted in the Revised 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 termination entry in his Central Registration Depository (“CRD”) records because the claim, allegation, or information is clearly erroneous and false.”

In the Revised Statement of Answer, Respondent requested that an award be entered dismissing with prejudice all claims asserted and denying Claimant any recovery or other relief; awarding Respondent the costs, disbursements, forum fees and arbitrators' fees of this arbitration, including reasonable attorneys' fees; and awarding Respondent such other and further relief as may be appropriate, including assessing all forum fees against Claimant pursuant to Rule 13805.

OTHER ISSUES CONSIDERED AND DECIDED

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

The original Statement of Answer was filed on July 31, 2021. Due to deficiencies in the pleading, the original Statement of Answer filed on July 31, 2021 was not sent to the Panel and therefore was not considered by the Arbitrators.

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. Claimant's claims, including Claimant's request for expungement of his CRD records, are denied in their entirety.
2. Any and all claims for relief not specifically addressed herein, including any requests for attorneys' fees, are 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 = \$ 1,575.00

**The filing fee is made up of a non-refundable and a refundable portion.*

FINRA Dispute Resolution Services previously deferred Claimant's filing fee of \$ 1,575.00. Upon conclusion of the matter, the Panel determined to waive half of the non-refundable portion of the filing fee in the amount of \$187.50.

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 NYLife Securities 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:

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|----------------------------------------------------|------|----------|
| May 20, 2021, postponement requested by Respondent | = \$ | 1,125.00 |
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| Total Postponement Fees | = \$ | 1,125.00 |

The Panel has assessed the total postponement fees to Respondent.

Discovery-Related Motion Fees

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

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|----------------------------------------------------------------------------------------------------------|------|--------|
| One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision | = \$ | 200.00 |
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| One (1) decision on a discovery-related motion on the papers with the Panel @ \$600.00/decision | = \$ | 600.00 |
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Claimant submitted two (2) discovery-related motions

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| Total Discovery-Related Motion Fees | = \$ | 800.00 |

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

Contested Motion for Issuance of Subpoena Fees

Fees apply for each decision on a contested motion for the issuance of a subpoena.

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| Two (2) decisions on contested motions for the issuance of a subpoena with one Arbitrator @ \$200.00 | = \$ | 400.00 |
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| Total Contested Motion for Issuance of Subpoena Fees | = \$ | 400.00 |

The Panel has assessed the total contested motion for issuance of subpoena 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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

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| Three (3) pre-hearing sessions with the Panel @ \$1,125.00/session | = \$ | 3,375.00 |
| Pre-Hearing Conferences: October 5, 2020 | 1 session | |
| December 8, 2020 | 1 session | |
| May 18, 2021 | 1 session | |

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|-----------------------------------------------|------------|----------|
| Two (2) hearing sessions @ \$1,125.00/session | = \$ | 2,250.00 |
| Hearings: September 14, 2021 | 2 sessions | |

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| Total Hearing Session Fees | = \$ | 5,625.00 |

The Panel has assessed \$1,687.50 of the hearing session fees to Claimant.

The Panel has assessed \$3,937.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

| | | |
|------------------|---|------------------------------------------|
| David Paul Clark | - | Public Arbitrator, Presiding Chairperson |
| Thomas Nicastro | - | Public Arbitrator |
| Peter J. Pokorny | - | 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

David Paul Clark

David Paul Clark
Public Arbitrator, Presiding Chairperson

09/27/2021

Signature Date

Thomas Nicastro

Thomas Nicastro
Public Arbitrator

09/27/2021

Signature Date

Peter J. Pokorny

Peter J. Pokorny
Non-Public Arbitrator

09/27/2021

Signature Date

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September 28, 2021

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