

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Sheila Spainhour Shaffer

Case Number: 20-00701

vs.

Respondent
Legg Mason Wood Walker, Incorporated

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.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Sheila Spainhour Shaffer: Dochter Kennedy, MBA, J.D., and Chelsea Masters, Esq., AdvisorLaw, Westminster, Colorado.

Respondent Legg Mason Wood Walker, Incorporated did not enter an appearance.

CASE INFORMATION

Statement of Claim filed on or about: March 2, 2020.

Claimant signed the Submission Agreement: March 2, 2020.

Legg Mason Wood Walker, Incorporated did not file a Statement of Answer or sign the Submission Agreement.

CASE SUMMARY

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 359692; compensatory damages in the amount of \$1.00; and any and all other relief that the Arbitrator deems just and equitable.

At 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.

Respondent did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and is bound by the determination of the Arbitrator on all issues submitted.

On October 13, 2020, Claimant filed an Affidavit stating that the customer in Occurrence Number 359692 was served with the Statement of Claim and Notice of Expungement. On December 15, 2020 Claimant filed an Affidavit confirming that the customer was served with notice of the date and time of the expungement hearing.

On October 21, 2020, the customer in Occurrence Number 359692 submitted a response supporting Claimant's expungement request.

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 did not participate in the expungement hearing.

The customer also did not participate in the expungement and did not oppose Claimant's request for expungement. The Arbitrator found that the customer had notice of the expungement request and hearing.

The Arbitrator reviewed Claimant's BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrence in the CRD.

Claimant testified that she was unable to obtain a copy of the settlement agreement and had no means of obtaining a copy of it. Respondent did not appear at the hearing and, according to the testimony provided at the hearing, has gone through multiple reorganizations since the signing of the settlement agreement in 1999. Claimant's counsel submitted a letter explaining her unsuccessful efforts to obtain a copy of the settlement agreement. The Arbitrator considered the amount of payment made to any party to the settlement. The Arbitrator noted that it was unclear if the settlement was conditioned on any party to the settlement not opposing the expungement request as Claimant testified that she had no information regarding the settlement. The Arbitrator however found that the date of the settlement preceded the effective date of the rule against conditioned settlements. The Arbitrator also noted that Claimant contributed to the settlement amount. The Arbitrator found that expungement is still warranted as Claimant's contribution was reimbursed by the Respondent. Additionally, Claimant's former supervisor submitted a written letter stating that Claimant's contribution, which was automatically deducted without her prior consent, was required as a matter of her employer's policy, not because of a belief that Claimant was culpable.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, the exhibits, and Claimant's testimony.

AWARD

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

1. The Arbitrator recommends the expungement of all references to Occurrence Number 359692 from registration records maintained by the CRD for Claimant Sheila Spainhour Shaffer (CRD Number 1230244) with the understanding that, pursuant to Notice to Members 04-16, Claimant Sheila Spainhour Shaffer must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons:

The Arbitrator found that Claimant did not take the actions that led to the customer complaint at issue. Additionally, the customer submitted evidence in support of Claimant's request, and Claimant's former supervisor attested to the fact that no finding of wrongdoing had been made by the employer against the Claimant. The Arbitrator found credible Claimant's testimony concerning her actions, which supported the request for expungement.

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	=	\$ 50.00
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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 Leg Mason Wood Walker, Incorporated is assessed the following:

Member Surcharge = \$ 150.00

Postponement Fees

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

November 17, 2020, postponement requested by Claimant = \$ 50.00

Total Postponement Fees = \$ 50.00

The Arbitrator has assessed the total postponement 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 a single Arbitrator @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: July 29, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: January 19, 2021 1 session

Total Hearing Session Fees = \$ 100.00

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

Kelli J. Jareaux

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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

Kelli J. Jareaux

Kelli J. Jareaux
Sole Public Arbitrator

02/09/2021

Signature Date

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February 10, 2021

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