

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Wendy Buchanan

Case Number: 20-00980

vs.

Respondent
Edward Jones

Hearing Site: Houston, Texas

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

For Claimant Wendy Buchanan (“Claimant”): Michael O’Gara, Esq. and Docthor Kennedy, Esq., AdvisorLaw LLC, Westminster, Colorado.

For Respondent Edward Jones (“Respondent”): Darren Goodman, Esq., Edward D. Jones & Co., L.P., Tempe, Arizona.

CASE INFORMATION

Statement of Claim filed on or about: March 26, 2020.
Claimant signed the Submission Agreement: March 25, 2020.

Statement of Answer filed on or about: May 15, 2020.
Respondent signed the Submission Agreement: May 15, 2020.

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”).

In the Statement of Answer, Respondent took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1428452, 1434781, 1453681, and 1547517; compensatory damages in the amount of \$1.00; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent opposed Claimant's request for damages.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

On October 13, 2020, Claimant filed obituaries and Death Records for one of the two customers in Occurrence Number 1434781 and one of the two customers in Occurrence Number 1547517. Claimant advised that the other customers in Occurrence Numbers 1434781 and 1547517 and the customers in Occurrence Numbers 1428452 and 1453681 (collectively, "Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notices"). On October 20, 2020, Claimant filed an Affidavit confirming the Customers were served with the Notices. Claimant also filed a copy of the FedEx tracking information available online for the Notices. On January 27, 2021, Claimant advised that the Customers were served with notice of the date and time of the rescheduled expungement hearing ("2nd Notices"). On February 1, 2021, Claimant filed an Affidavit confirming the Customers were served with the 2nd Notices. Claimant also filed a copy of the FedEx tracking information available online for the 2nd Notices.

The Arbitrator conducted a recorded, telephonic hearing on March 23, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, took no position on the request for expungement.

The Customers did not participate in the expungement hearing. The Arbitrator found that the Customers 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 occurrences in the CRD.

The Arbitrator noted that the disputes related to Occurrence Numbers 1428452, 1434781, 1453681, and 1547517 were not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony and documentary evidence, pleadings, BrokerCheck® Report, Notices, and 2nd Notices to Customers.

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 Numbers 1428452, 1434781, 1453681, and 1547517 from registration records maintained by the CRD for Claimant Wendy Buchanan (CRD Number 1855162) with the understanding that, pursuant to Notice to Members 04-16, Claimant Wendy Buchanan 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 of Arbitration Procedure ("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

The claim, allegation, or information is false.

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

With respect to Occurrence Number 1428452, Claimant made suitable recommendations of mutual funds to the customer based on his profile, including objectives and risk tolerance. The customer understood and agreed to the investments. Claimant fully explained the investments and potential risks, and the customer was provided with appropriate prospectuses and other documents explaining the benefits and risks of mutual funds. The customer frequently contacted Claimant to discuss the investments and the account was reviewed periodically. The customer quit his job and his wife became ill, so he needed extra money. Claimant repeatedly recommended that the customer sell some of his stock but he refused. Against Claimant's advice, the customer began withdrawing funds from his account and, since he was under age 55, it resulted in taxes and penalties. The customer's account performed well until 2000, when it was negatively affected by market fluctuations. The customer then asked Claimant about investing in bonds, as Claimant had previously recommended. Claimant told him that bonds were not a good investment at that time. Claimant transferred the customer to another financial advisor in 2004, because he was not heeding her advice and she believed he might pay more attention to a new advisor. However, documentation prepared years later by the new advisor demonstrated that the customer continued to ignore the advice given to him. The customer's complaint was investigated and denied, and the customer did not pursue it. The Arbitrator finds that Claimant handled the customer's account in a professional manner. The evidence demonstrated that Claimant made suitable investment recommendations and did not make any performance guarantee. It also showed that the customer's losses were incurred because he ignored Claimant's advice.

With respect to Occurrence Number 1434781, Claimant made suitable recommendations of mutual funds to the customers. The recommendations were consistent with their objectives and risk tolerance. Claimant fully explained the investments and potential risks, and the customers were provided with appropriate prospectuses and other documents explaining the benefits and risks of mutual funds. The customers understood

and agreed to investing in the mutual funds. Claimant made no performance guarantees and did not tell the customers that the principal invested could not be lost. The investments were exactly what had been discussed and approved by the customers and performed well for a dozen years. Claimant moved to another firm before the customers submitted their complaint. After submitting the complaint, the customers transferred their accounts back to Claimant and told her that they wrote the complaint because another broker told them that they could get their money back as a result. The complaint was investigated and denied. It was not pursued by the customers. The Arbitrator finds that Claimant was not responsible for the Customers' market losses and performed her duties in a professional manner.

With respect to Occurrence Number 1453681, a complaint involving "Customer W," and Occurrence Number 1547517, a complaint involving "Customer L," both of these complaints involved the purchase of insurance policies for estate planning purposes. The policies were tax-free vehicles and intended to avoid estate taxes on the policy holders' deaths. Customers W and L chose to purchase the policies after they were fully explained, reviewed, and recommended by their certified public accountants, an estate planning expert (an attorney who was working with both customers), Customer W's son (who also was Claimant's client), and Customer L's two daughters and a son-in-law. As to Customer W's complaint, Claimant had nothing to do with cashing out the policy, as she already had left Respondent. Documentation indicated that a subsequent broker advised Customer W not to cash out the policy, but she insisted on doing so. The Arbitrator finds that Claimant made suitable recommendations to Customers W and L and performed her duties in a professional manner.

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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge Fee	= \$	150.00
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Postponement Fees

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

November 24, 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 @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: July 21, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: March 23, 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

Lynne M. Gomez

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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

Lynne M. Gomez

Lynne M. Gomez
Sole Public Arbitrator

03/31/2021

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.

March 31, 2021

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