

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Charles Winthrop Stanton

Case Number: 20-00990

vs.

Respondent  
AXA Advisors, LLC

Hearing Site: Seattle, Washington

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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 Charles Winthrop Stanton (“Claimant”): Benjamin Winograd, Esq., AdvisorLaw LLC, Westminster, Colorado.

For Respondent AXA Advisors, LLC (“Respondent”): Annette K. Ebright, Esq., AXA Equitable Life Insurance Company, Charlotte, North Carolina.

**CASE INFORMATION**

Statement of Claim filed on or about: March 26, 2020.

Claimant signed the Submission Agreement: March 26, 2020.

Statement of Answer filed by Respondent on or about: March 30, 2020.

Respondent signed the Submission Agreement: March 30, 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:

1. Expungement of Occurrence Numbers 1494515, 1893575, and 1984623 from Claimant's CRD records pursuant to FINRA Rule 2080, as:
  - a. the claim, allegation or information is factually impossible or clearly erroneous; and/or
  - b. Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds; and/or
  - c. the claim, allegation or information is false;
2. Compensatory damages in the amount of \$1.00 from Respondent; and
3. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. Claimant to take nothing against Respondent and the Panel to deny Claimant's request for \$1.00 in compensatory damages;
2. Costs of the proceeding; and
3. Assessment of all costs of this proceeding, including member forum fees, against Claimant.

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.

On November 3, 2020, Claimant filed an Affidavit confirming that the customers in Occurrence Numbers 1494515, 1893575, and 1984623 ("Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on March 1, 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 also reviewed the settlement documents for Occurrence Number 1984623, considered the amount of payments made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request. The Arbitrator also noted that Claimant was required to contribute his insurance deductible by his errors and omissions insurance carrier for the settlement. Expungement is still warranted as

Claimant's contribution to the settlement amount was made out of his errors and omissions insurance and the contribution to the settlement was to avoid the cost of litigation.

The Arbitrator noted that the disputes related to Occurrence Numbers 1494515 and 1893575 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: the Statement of Claim; the Statement of Answer; Claimant's testimony; Claimant's exhibits; Claimant's BrokerCheck® Report; and the settlement agreement related to Occurrence Number 1984623.

### **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 1494515, 1893575, and 1984623 from registration records maintained by the CRD for Claimant Charles Winthrop Stanton (CRD Number 2569349) with the understanding that, pursuant to Notice to Members 04-16, Claimant Charles Winthrop Stanton 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.

The claim, allegation, or information is false.

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

#### **Occurrence Number 1494515**

The customer in Occurrence Number 1494515 ("Mr. B") asserted that after being sold a variable life insurance policy: a) he did not hear from Claimant for five years; b) the product did not perform as represented; and c) he was unhappy at being unable to receive a one page summary report showing the performance of his accounts and fees. The evidence, however, shows repeated communication between Mr. B and Claimant, that Mr. B was for many years so happy with Claimant that he made multiple referrals to Claimant, and that the customer received the statements produced for his accounts – but that a one page summary was simply not a statement produced for the product in issue. Based upon the evidence, the Arbitrator finds that Mr. B's claims and allegations are false and expungement is appropriate.

### **Occurrence Number 1893575**

This dispute arises out of a series of communications between the customer in Occurrence Number 1893575 (“Ms. N”) and Claimant concerning the operation and performance of a variable annuity with a guaranteed income benefit. Ms. N was initially concerned with the performance of the product and its benefits with regard to her goals. The evidence produced shows that Ms. N’s concerns were promptly resolved through additional communication and explanation of the product and its features by Claimant. Ms. N was satisfied with the explanation and better understanding of how the product performed and withdrew her complaint. Based upon the evidence, this occurrence appears more to be Ms. N’s simple failure to understand a financial product than anything rising to the level of a “complaint” concerning Claimant’s conduct. Therefore, the Arbitrator finds that Ms. N’s claim is clearly erroneous and that expungement is appropriate.

### **Occurrence Number 1984623**

The claim by the customers in Occurrence Number 1984623 (“Mr. and Mrs. R”) centers primarily around the issue of taxes. Mr. and Mrs. R are high income and high net worth individuals with experience in stocks, real estate, and employer provided stock compensation. Mr. and Mrs. R complained about the tax consequences from selling certain heavily concentrated positions of stock to diversify their finances. The evidence presented shows that the core of these complaints are not credible. The documentary evidence shows the records are replete with written statements that capital gains taxes would be incurred on the sale of their overly concentrated positions of stock, and that Mr. and Mrs. R should seek and obtain tax advice from their tax advisor. Further, it is not credible that Mr. and Mrs. R would be surprised at the tax effect of the sale of such stock given their investment experience and background. Nor does the Arbitrator find credible other assertions by Mr. and Mrs. R, including whether they should hold back funds from the stock sale to pay capital gains taxes and a claimed failure to provide a prospectus. The documentary evidence presented does not support such claims. The Arbitrator finds that Mr. and Mrs. R’s claims and allegations are not credible, are false and, therefore, expungement is appropriate.

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(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 = \$ 150.00

**Postponement Fees**

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

October 15, 2020, postponement requested by Claimant = \$ 50.00

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Total Postponement Fees = \$ 50.00

The Arbitrator has assessed the total postponement fees to Claimant.

**Discovery-Related Motion Fee**

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

One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision = \$ 200.00

Claimant submitted one (1) discovery-related motion

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Total Discovery-Related Motion Fees = \$ 200.00

The Arbitrator has assessed \$100.00 of the discovery-related motion fees to Claimant.

The Arbitrator has assessed \$100.00 of the discovery-related motion fees to Respondent.

**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 8, 2020 1 session

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

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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**

Robert M Stein

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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**

***Robert M Stein***

Robert M Stein  
Sole Public Arbitrator

**03/24/2021**

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 25, 2021

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