

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Kory Lee and
Andrew Miller

Case Number: 20-00998

vs.

Respondents

USAA Financial Advisors, Inc. and
USAA Investment Services Company

Hearing Site: Atlanta, Georgia

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 Persons vs. Members

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants Kory Lee (“Lee”) and Andrew Miller (“Miller”) (collectively, “Claimants”): Jonah A. Toleno, Esq., George C. Miller, Esq., and Katherine S. Bowles, Esq., Shustak Reynolds & Partners, P.C., San Diego, California.

For Respondents USAA Financial Advisors, Inc. (“USAA FA”) and USAA Investment Services Company (“USAA IS”): Sarah E. Moffett, Esq. and Michael R. Greco, Esq., Fisher & Phillips LLP, Denver, Colorado.

CASE INFORMATION

Statement of Claim filed on or about: March 27, 2020.
Lee signed the Submission Agreement: March 16, 2020.
Miller signed the Submission Agreement: March 17, 2020.

Statement of Answer filed by USAA FA on or about: June 24, 2020.
USAA FA signed the Submission Agreement: June 24, 2020.

Statement of Answer filed by USAA IS on or about: February 16, 2021.
USAA IS signed the Submission Agreement: February 16, 2021.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: breach of contract, breach of the implied covenant of good faith and fair dealing, tortious interference with business relations/prospective business relations, tortious interference with contract and prospective economic relations, intentional and negligent misrepresentation, negligent supervision and retention of employees, and defamation/libel/slander. The causes of action related to Claimants' allegation that the Form U5s filed by USAA FA, as part of registration records maintained by the Central Registration Depository ("CRD"), are false.

Unless specifically admitted in the Statement of Answer, USAA FA denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in the Statement of Answer, USAA IS denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested expungement of the Form U5 filed by USAA FA; compensatory and punitive damages; pre-judgment and post-judgment interest; incidental damages; attorneys' fees, costs, and disbursements, including expert witness fees; any other relief deemed applicable by the Panel. Claimants further requested that all fees above and beyond the filing fee be assessed exclusively against USAA FA.

In the Statement of Answer, USAA FA requested that all of Claimants' claims be denied in their entirety and all other relief, in law or in equity, which the Panel deems just and proper.

In the Statement of Answer, USAA IS requested that all of Claimants' claims be denied in their entirety and all other relief, in law or in equity, which the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges that he has read the pleadings and other materials filed by the parties.

On August 25, 2020, the parties filed a Stipulated Substitution of Party Order ("Substitution Order"), in which USAA IS was substituted as a party for USAA FA in this matter. On October 28, 2020, the Panel executed the Substitution Order. Therefore, the Panel made no determination with respect to any of Claimants' relief requests against USAA FA.

On February 16, 2021, USAA IS filed a Motion to Dismiss pursuant to Rule 13504 of the Code of Arbitration Procedure ("Code"). On April 2, 2021, Claimants filed an Opposition to the Motion to Dismiss. On April 30, 2021, USAA IS filed a Reply in Support of the Motion to Dismiss. In an Order dated June 8, 2021, the Panel denied the Motion to Dismiss.

On September 1, 2021, Claimants filed notice of partial settlement and dismissal with prejudice of all claims other than for expungement. Claimants further requested that the claim for expungement be heard by the Chairperson as the sole arbitrator. Therefore, the Panel made no determination with respect to Claimants' request for monetary relief. In an Order dated

September 5, 2021, the Panel granted Claimants' request to proceed with the Chairperson as the sole arbitrator.

On September 20, 2021, Claimants filed an Unopposed Motion for Expungement.

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. The Panel recommends the expungement of all references to Occurrence Number 1927134 maintained by the CRD for Kory David Lee (CRD Number 5271289). Any "Yes" answers should be changed to "No," as applicable.

The Panel recommends expungement based on the defamatory nature of the information. The above recommendations are made with the understanding that the registration records are not automatically amended. Kory David Lee must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure ("CRED") Department for review.

2. The Panel recommends the expungement of all references to Occurrence Number 1927334 maintained by the CRD for Andrew Donald Miller (CRD Number 5497022). Any "Yes" answers should be changed to "No," as applicable.

The Panel recommends expungement based on the defamatory nature of the information. The above recommendations are made with the understanding that the registration records are not automatically amended. Andrew Donald Miller must forward a copy of this Award to FINRA's CRED Department for review.

3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, 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	= \$ 1,575.00
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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 parties, USAA FA and USAA IS are each assessed the following:

Member Surcharge	= \$	1,900.00
Member Process Fee	= \$	3,750.00

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 the Panel @ \$1,125.00/session	= \$	1,125.00
Pre-Hearing Conference: October 12, 2020	1 session	

One (1) hearing session @ \$450.00/session	= \$	450.00
Hearing: September 30, 2021	1 session	

Total Hearing Session Fees	= \$	1,575.00
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The Panel has assessed \$562.50 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$1,012.50 of the hearing session fees to USAA IS.

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

ARBITRATOR

Joe E. Manuel

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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

Joe E. Manuel

Joe E. Manuel
Sole Public Arbitrator

10/07/2021

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.

October 07, 2021

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