

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Johnny D. Rodriguez

Case Number: 20-01036

vs.

Respondents
LPL Financial LLC
Dawn Sheri West

Hearing Site: New York, New York

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: Customer vs. Member and Associated Person

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimant Johnny D. Rodriguez: Robert Brian Volynsky, Esq., Weltz Kakos Gerbi Wolinetz Volynsky, LLP, Mineola, New York.

For Respondents LPL Financial LLC, (“LPL”) and Dawn Sheri West (“West”): Thomas F. Barnett, Esq., LPL Financial, LLC, Boston, Massachusetts.

CASE INFORMATION

Statement of Claim filed on or about: March 30, 2020.

Johnny D. Rodriguez signed the Submission Agreement: March 30, 2020.

Joint Statement of Answer filed by Respondents LPL Financial LLC and West on or about: May 21, 2020.

LPL signed the Submission Agreement: May 21, 2020.

West signed the Submission Agreement: May 20, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty; unsuitability; negligence; common law fraud; violation of sections 10(B) and 20(A) of the Securities Exchange Act 1934; breach of contract; negligent supervision; and respondeat superior. The causes of action relate to unspecified securities.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: unspecified compensatory, consequential and punitive damages; attorneys' fees, expert fees, costs, expenses, filing and forum fees; pre and post award interest at the highest rate allowable under law; and such other and further relief the Panel deemed just, equitable and proper.

In the Statement of Answer, Respondents requested: that the Statement of Claim be dismissed; that Claimant recover nothing; expungement of West's CRD pursuant to Rule 12805; and such other, further and different relief the Panel may deem appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

On October 5, 2021, Claimant filed a notice of voluntary dismissal with prejudice/settlement. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On November 4, 2021, Respondent West filed a Motion for Expungement, to which no response was filed.

The Panel conducted a recorded telephonic hearing on January 6, 2022, so the parties could present oral argument and evidence on Respondent West's request for expungement.

Claimant's counsel participated in the expungement hearing.

The Award in this matter may be executed in counterpart copies.

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. Respondent West's request for expungement of the above-captioned arbitration (Occurrence Number 2070625) from registration records maintained by the CRD is denied.
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.*

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 LPL Financial 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:

April 20-23, 2021, postponement requested by parties Waived

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:

Two (2) pre-hearing sessions with Panel @ \$1,125.00/session =\$ 2,250.00

Pre-Hearing Conferences: July 28, 2020 1 session

January 21, 2021 1 session

One (1) hearing session on expungement request @ \$1,125.00/session =\$ 1,125.00

Hearing: January 6, 2022 1 session

Total Hearing Session Fees =\$ 3,375.00

The Panel has assessed \$1,125.00 of the hearing session fees to Claimant.

The Panel has assessed \$1,125.00 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed \$1,125.00 of the hearing session fees for the hearing on the expungement request to Respondent West.

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

ARBITRATION PANEL

Peter A. Goldman	-	Public Arbitrator, Presiding Chairperson
Peter A. Seibel	-	Public Arbitrator
John Michael Bergin	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Peter A. Goldman

Peter A. Goldman
Public Arbitrator, Presiding Chairperson

01/15/2022

Signature Date

Peter A. Seibel

Peter A. Seibel
Public Arbitrator

01/15/2022

Signature Date

John Michael Bergin

John Michael Bergin
Public Arbitrator

01/18/2022

Signature Date

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January 19, 2022

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