

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Arturo Gilberto Torres

Case Number: 20-01040

vs.

Respondent
USAA Financial Advisors, Inc. and
USAA Investment Services Company

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. Members

REPRESENTATION OF PARTIES

For Claimant Arturo Gilberto Torres (“Claimant”): Chelsea Masters, Esq. and Dochtor Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

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

CASE INFORMATION

Statement of Claim filed on or about: March 31, 2020.
Amended Statement of Claim filed on or about: March 12, 2021.
Claimant signed the Submission Agreement: March 30, 2020 and September 21, 2020.

Statement of Answer filed by USAA Financial on or about: June 30, 2020.
USAA Financial signed the Submission Agreement: June 29, 2020.

Statement of Answer filed by USAA Investment on or about: November 23, 2020.
Answer to Amended Statement of Claim filed on or about: March 22, 2021.
USAA Investment signed the Submission Agreement: November 11, 2020.

CASE SUMMARY

In the Statement of Claim, as amended, Claimant asserted a claim alleging that the Form U5s filed by USAA Financial and USAA Investment, as part of registration records maintained by the Central Registration Depository (“CRD”), are defamatory in nature.

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

In the Statement of Answer, as amended, USAA Investment did not oppose Claimant's expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of the Form U5s filed by USAA Financial and USAA Investment and relevant portions of the related Form U4s, compensatory damages in the amount of \$1.00, and any other relief the Arbitrator deems just and equitable.

In the Statement of Answer, USAA Financial requested dismissal with prejudice of Claimant's claim in its entirety and all other relief, in law or in equity, to which it is justly entitled.

In the Statement of Answer, as amended, USAA Investment requested that Claimant's request for \$1.00 in compensatory damages be denied and that any and all forum fees for this matter be assessed against the Claimant.

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 May 28, 2020, Claimant filed a Motion to Bar Defenses Due to Untimely Answer ("Motion to Bar Defenses"). On June 29, 2020, USAA Financial filed an Opposition to the Motion to Bar Defenses. On September 22, 2020, the Arbitrator heard oral arguments on the Motion to Bar Defenses. In an Order dated the same day, the Arbitrator denied the Motion to Bar Defenses.

At a pre-hearing conference on August 28, 2020, Respondent made an unopposed oral motion for leave to file a Stipulated Substitution of Party Order ("Stipulated Order") to substitute USAA Investment Services in place of USAA Financial, due to USAA Financial exiting the brokerage industry. In an Order dated the same day, the Arbitrator granted the motion. On August 31, 2020, the parties filed the Stipulated Order for the Arbitrator's signature. The Arbitrator executed the Stipulated Order on September 2, 2020.

AWARD

After considering the pleadings, the testimony and evidence presented at the 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 the Reason for Termination and Termination Explanation in Section 3 of Arturo Gilberto Torres's (CRD Number 4519935) Form U5 filed by USAA Financial Advisors, Inc. on February 1, 2019 and maintained by the CRD. The Reason for Termination shall be changed to "Voluntary" and the Termination

Explanation should appear blank. This directive shall apply to all references to the Reason for Termination and Termination Explanation.

The Arbitrator also recommends the expungement of the Reason for Termination and Termination Explanation in Section 3 of Arturo Gilberto Torres’s (CRD Number 4519935) Form U5 filed by USAA Investment Services Company on February 1, 2019 and maintained by the CRD. The Reason for Termination shall be changed to “Voluntary” and the Termination Explanation should appear blank. This directive shall apply to all references to the Reason for Termination and Termination Explanation.

The Arbitrator 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. Arturo Gilberto Torres must forward a copy of this Award to FINRA’s Credentialing, Registration, Education and Disclosure Department for review.

2. Any and all claims for relief not specifically addressed herein, 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 = \$ 50.00

**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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as parties, USAA Financial Advisors and USAA Investment Services are each assessed the following:

Member Surcharge = \$ 150.00

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:

Two (2) pre-hearing sessions @ \$50.00/session = \$ 100.00
Pre-Hearing Conferences: August 28, 2020 1 session
September 22, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: February 8, 2021 1 session

Total Hearing Session Fees = \$ 150.00

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

Sherry R. Wetsch

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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

Sherry R. Wetsch

Sherry R. Wetsch
Sole Public Arbitrator

03/24/2021

Signature Date

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March 24, 2021

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