

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Ralph Gerard Adamo

Case Number: 20-01047

vs.

Respondent
FSC Securities Corporation

Hearing Site: Los Angeles, California

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 Ralph Gerard Adamo (“Claimant”): Kurt Zimmerman, Esq., HLBS Law, Westminster, Colorado.

For Respondent FSC Securities Corporation (“Respondent”): Chad Weaver, Esq. and Joseph Suarez, Esq., Freeman Mathis & Gary, LLP, Seal Beach, California.

CASE INFORMATION

Statement of Claim filed on or about: March 30, 2020.
Claimant signed the Submission Agreement: March 30, 2020.

Statement of Answer filed by Respondent on or about: May 1, 2020.
Respondent signed the Submission Agreement: May 1, 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 noted that it does not oppose Claimant’s request for expungement and deferred to the Arbitrator for a decision concerning the requisite elements under FINRA Rule 2080.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1929657 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous;
2. Expungement of Occurrence Number 1929657 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
3. Compensatory damages in the amount of \$1.00 from Respondent; and
4. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not set forth a specific relief request.

During 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 17, 2020, Claimant advised that the customer in Occurrence Number 1929657 ("Customer") was deceased. On November 24, 2020, Claimant filed an Affidavit advising that the Customer's son, who is serving as the executor of the Customer's estate, was served with the Statement of Claim and with notice of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on January 7, 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, did not oppose the request for expungement.

The Customer's son did not participate in the expungement hearing. The Arbitrator found that the Customer's son 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 occurrence in the CRD.

The Arbitrator also reviewed the settlement documents, 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 and that Claimant did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report; Claimant's Statement of Claim; Claimant's testimony; and the settlement agreement.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, 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 Number 1929657 from registration records maintained by the CRD for Claimant Ralph Gerard Adamo (CRD Number 1624126) with the understanding that, pursuant to Notice to Members 04-16, Claimant Ralph Gerard Adamo 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:

Claimant was a registered representative with Respondent. Based on the Customer’s age and financial needs, Claimant suggested a Penn Annuity, which the Customer purchased. The Penn Annuity was a “life only annuity” and the Customer signed disclosure documents affirming her understanding of the details of the Penn Annuity. Upon her death, the Customer’s son became the executor of the Customer’s estate and filed a FINRA arbitration on her behalf, alleging that Claimant should not have suggested a life-only annuity for his mother. The Customer’s son also sought \$100,000.00 in damages, which was ultimately reduced to a settlement of \$20,000.00.

The Customer clearly understood what she was purchasing and signed documents to establish this understanding. The Customer never complained. After her death, only her son, acting as an executor to her estate, filed a complaint on his mother’s behalf. The small settlement amount is clearly to eliminate a frivolous claim.

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:

December 8, 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 with a single Arbitrator @ \$50.00/session = \$ 50.00
Pre-hearing Conference: July 20, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing Date: January 7, 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

Michael M. Hachigian

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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

Michael M. Hachigian

Michael M. Hachigian
Sole Public Arbitrator

01/25/2021

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.

January 25, 2021

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