

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Nathaniel Jay Tilton

Case Number: 20-01180

vs.

Respondent
Commonwealth Financial Network

Hearing Site: Boston, Massachusetts

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

This case was administered under the Special Proceeding option for simplified cases.

REPRESENTATION OF PARTIES

For Claimant Nathaniel Jay Tilton: Tosh Grebenik, J.D., Judex Law, LLC, Broomfield, Colorado.

For Respondent Commonwealth Financial Network: Joe Tully, Esq., Commonwealth Financial Network, Waltham, Massachusetts.

CASE INFORMATION

Statement of Claim filed on or about: April 10, 2020.

Amended Statement of Claim filed on or about: May 19, 2020.

Nathaniel Jay Tilton signed the Submission Agreement: April 10, 2020.

Statement of Answer filed by Respondent on or about: June 16, 2020.

Commonwealth Financial Network signed the Submission Agreement: June 18, 2020.

CASE SUMMARY

In the Amended 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 did not object to Claimant’s expungement request.

RELIEF REQUESTED

In the Amended Statement of Claim, Claimant requested expungement of Occurrence Number 1474754; and compensatory damages in the amount of \$1.00 from Respondent.

In the Statement of Answer, Respondent did not object to Claimant's request for expungement of Occurrence Number 1474754; and \$1.00 in compensatory damages.

At the close of 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 October 19, 2020, Claimant advised that the customer in Occurrence Number 1474754 was served with the Amended Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on January 19, 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 did not participate in the expungement hearing. The Arbitrator found that the customer 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 noted that the dispute related to Occurrence Number 1474754 was denied and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, exhibits, Claimant's BrokerCheck® Report, and Claimant's testimony.

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 Number 1474754 from registration records maintained by the CRD for Claimant Nathaniel Jay Tilton (CRD Number 4406581) with the understanding that, pursuant to Notice to Members 04-16, Claimant Nathaniel Jay Tilton 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 finding of fact:

The claim, allegation, or information is false.

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

Claimant seeks expungement with respect to the customer’s complaint, which asserted unsuitable investments because of market loss without any specific rationale, supporting evidence, or damages. The customer knew that he had begun late in planning his retirement financing and chose a moderately aggressive risk tolerance informed by 10+/- years of similar investing. Despite expressing a desire to take \$3,000.00 monthly withdrawals, the customer did so at a much higher rate and appeared to engage in day trading. All necessary writing and explanations were provided to the customer in advance of the investments and agreed to by the customer. The customer’s letter dated August 21, 2009 regarding closing out the account sought no explanation or relief and reads more as a striking out by the customer in frustration with the performance of global markets as opposed to complaining about Claimant’s performance. Upon review of all the evidence, the Arbitrator finds the customer’s complaint to be false and order that this occurrence be expunged from Claimant’s CRD for it deceives the public and unfairly damages Claimant.

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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent Commonwealth Financial Network is assessed the following:

Member Surcharge	= \$	150.00
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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: September 8, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing Date: January 19, 2021	1 session	

Total Hearing Session Fees	= \$	100.00
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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

Gerard S. Marsan

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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

Gerard S. Marsan

Gerard S. Marsan
Sole Public Arbitrator

01/27/2021

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 27, 2021

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