

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Gary Arthur Tangwall

Case Number: 20-01328

vs.

Respondent  
Thrivent Investment Management Inc.

Hearing Site: Minneapolis, Minnesota

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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 Gary Arthur Tangwall (“Claimant”): Benjamin Winograd, Esq. and Dochtor Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Thrivent Investment Management Inc. (“Respondent”): Jeffrey A. Ziesman, Esq., Bryan Cave Leighton Paisner LLP, Kansas City, Missouri.

**CASE INFORMATION**

Statement of Claim filed on or about: April 28, 2020.  
Claimant signed the Submission Agreement: April 27, 2020.

Statement of Answer filed on or about: July 1, 2020.  
Respondent signed the Submission Agreement: July 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”).

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

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Occurrence Number 2043419, an award of compensatory damages in the amount of \$1.00, and any and all other relief that the

Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that Claimant's expungement request be denied, that the Statement of Claim be dismissed with prejudice, and that all costs and expenses associated with the proceeding be assessed against Claimant.

On the record at 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 25, 2020, Claimant advised that the customer in Occurrence Number 2043419 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On December 1, 2020, Claimant filed an Affidavit confirming that the Customer was served with the Notice. Claimant also filed a copy of the FedEx tracking information available online for the Notice.

The Arbitrator conducted a recorded, telephonic hearing on January 12, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and denied any wrongdoing, without taking a position on the expungement request.

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 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 testimony and Exhibits 1-8.

### **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 2043419 from registration records maintained by the CRD for Claimant Gary Arthur Tangwall (CRD Number 1272316) with the understanding that, pursuant to Notice to Members 04-16,

Claimant Gary Arthur Tangwall 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; and

The claim, allegation, or information is false.

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

The Customer complained that he was not informed that a surrender fee would be assessed if he surrendered his variable annuity within the first seven years after purchase. However, the Customer acknowledged, in writing, his awareness of the surrender fee.

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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge Fee	= \$	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 @ \$50.00/session	= \$	50.00
Pre-Hearing Conference: September 14, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing Date: January 12, 2021 1 session		
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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**

Leonard Arthur Nelson

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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**

***Leonard Arthur Nelson***

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Leonard Arthur Nelson  
Sole Public Arbitrator

**01/13/2021**

\_\_\_\_\_  
Signature Date

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January 13, 2021

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