

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Gary Arthur Tangwall

Case Number: 20-01330

vs.

Respondent
Thrivent Investment Management Inc.

Hearing Site: Minneapolis, Minnesota

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 but took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1405591,

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 request for compensatory damages in the amount of \$1.00 be denied and that it be awarded any such other relief as the Arbitrator deems just and proper under the circumstances.

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 December 1, 2020, Claimant filed a copy of the death record and obituary for the customer in Occurrence Number 1405591 ("Customer").

The Arbitrator conducted recorded, telephonic hearings on January 13, 2021 and March 23, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearings and, as stated in the Statement of Answer, took no position on the request for expungement.

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 documentation, considered the amount of payment 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 contributed to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, Claimant's testimony, and Claimant's post-hearing memorandum of law.

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 1405591 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 finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

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

The documentary and testimonial evidence strongly suggests that the transfer of funds was indeed authorized by the Customer in specific instructions to Claimant. There was other evidence to suggest that the Customer may have been the victim of a fraud perpetrated by a third-party. However, there is no evidence tying Claimant to any alleged fraudulent activity.

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

**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

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 15, 2020 1 session

Two (2) hearing sessions on expungement request @ \$50.00/session = \$ 100.00

Hearings: January 13, 2021 1 session

March 23, 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

David Steven Paull

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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

David Steven Paull

David Steven Paull
Sole Public Arbitrator

03/25/2021

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.

March 25, 2021

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