

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Safet Musovic

Case Number: 20-01362

vs.

Respondents
Santander Securities LLC
LPL Financial LLC

Hearing Site: New York, New York

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

The evidentiary hearing was conducted by videoconferencing.

REPRESENTATION OF PARTIES

For Claimant Safet Musovic: Thomas McEvoy, Esq., Sichenzia Ross Ference LLP, New York, New York.

For Respondent Santander Securities LLC: N. Nancy Ghabai, Esq., Ghabai Law Group LLC, Boston, Massachusetts.

For Respondent LPL Financial LLC: Sara B. Davis, Esq., LPL Financial LLC, Boston, Massachusetts.

CASE INFORMATION

Statement of Claim filed on or about: April 30, 2020.
Safet Musovic signed the Submission Agreement: April 30, 2020.

Statement of Answer filed by Respondent Santander Securities LLC on or about: June 19, 2020.
Santander Securities LLC signed the Submission Agreement: June 4, 2020.

Statement of Answer filed by Respondent LPL Financial LLC on or about: June 22, 2020.
LPL Financial LLC signed the Submission Agreement: June 22, 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 Santander Securities LLC took no position on Claimant’s expungement request.

In the Statement of Answer, Respondent LPL Financial LLC did not oppose Claimant’s expungement request and denied any allegations of wrongdoing.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1929153 and 1672882; and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent Santander Securities LLC requested no forum fees be assessed against it and that all forum fees and costs be assessed solely to Claimant; and to the extent Claimant is seeking any monetary damages from Santander Securities LLC, that such relief be denied.

In the Statement of Answer, Respondent LPL Financial LLC requested that Claimant’s claim for \$1.00 in compensatory damages be denied.

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 September 16, 2020, Claimant advised that the customers in Occurrence Numbers 1929153 and 1672882 were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, video-conference hearing on December 16, 2020 so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondents participated in the expungement hearing and did not oppose the request for expungement.

The customers in Occurrence Number 1929153 did not participate in the expungement hearing. The Arbitrator found that the customers in Occurrence Number 1929153 had notice of the expungement request and hearing.

The customer in Occurrence Number 1672882 participated in the expungement hearing and opposed Claimant’s 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 occurrences in the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 1929153 was settled. By correspondence dated December 1, 2020, Claimant advised that the settlement documents were not available due to the age of the complaint and that Capital One Investing, LLC, the firm where Claimant was registered at the time is defunct. The Arbitrator considered the amount of payments made to any party to the settlement and noted that Claimant did not contribute to the settlement amount. The Arbitrator noted that the settlement was for a de minimis amount to avoid the cost of defense and court appearances. Based on Claimant's testimony, the Arbitrator found that the settlement was not conditioned on any party to the settlement not opposing the expungement request.

The Arbitrator noted that the dispute related to Occurrence Number 1672882 was not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the account record, the service documents, the pleadings, 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 1929153 from registration records maintained by the CRD for Claimant Safet Musovic (CRD Number 5499059) with the understanding that, pursuant to Notice to Members 04-16, Claimant Safet Musovic 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:

Claimant testified credibly that the investment had been fully discussed and documented, and met the client's risk profile, investment objectives, and tolerances. Additionally, there were no regulatory or administrative actions arising out of the complaint.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1672882 from registration records maintained by the CRD for Claimant Safet Musovic (CRD Number 5499059) with the understanding that, pursuant to Notice to Members 04-16, Claimant Safet Musovic 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:

In August 2013, the customer complained to the firm that his purchase the prior year of a New York municipal bond fund was unsuitable and that the fund had declined in value due to missing/withdrawn funds. This had been the sole trade in the account. The firm investigated the complaint and denied it. Specifically, the firm found that the investment was suitable given the customer’s risk profile and objectives and was fully discussed and documented. The decline in value was due to normal market fluctuations and not to any unauthorized withdrawals. Subsequently, the position in fact became profitable. Claimant took no further action on his complaint. The customer’s testimony did not bear on the firm’s findings.

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 event(s) giving rise to the dispute. Accordingly, as parties, Respondents Santander Securities LLC and LPL Financial LLC are each 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: August 18, 2020 1 session		
One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing Date: December 16, 2020 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

Robert E. Anderson

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Arbitrator's Signature

Robert E. Anderson

Robert E. Anderson
Sole Public Arbitrator

01/26/2021

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 26, 2021

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