

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Stephen Paul Webb

Case Number: 20-01370

vs.

Respondent
AXA Advisors, LLC

Hearing Site: Seattle, Washington

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 Stephen Paul Webb (“Claimant”): Doctor Kennedy, MBA, J.D. and Benjamin Winograd, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent AXA Advisors, LLC (“Respondent”): Annette K. Ebright, Esq., AXA Equitable Life Insurance Company, Charlotte, North Carolina.

CASE INFORMATION

Statement of Claim filed on or about: April 30, 2020.

Claimant signed the Submission Agreement: April 30, 2020.

Statement of Answer filed by Respondent on or about: May 20, 2020.

Respondent signed the Submission Agreement: May 13, 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 took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1992805 from his 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 1992805 from his CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation or information is false;
3. Deletion of all Disclosure Recording Pages associated with Occurrence Number 1992805 in their entirety;
4. An award of compensatory damages in the amount of \$1.00 from Respondent; and
5. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. Claimant takes nothing against Respondent;
2. Denial of Claimant's request for \$1.00 in compensatory damages;
3. To the extent that Respondent is required to participate in the proceedings, that Respondent be awarded the costs of this proceeding; and
4. An order that all costs of this proceeding, including member forum fees, be assessed against Claimant.

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 September 29, 2020, Claimant advised that the customers in Occurrence Number 1992805 ("Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing. On December 15, 2020, Claimant filed an Affidavit confirming that the Customers were served with the Statement of Claim and notice of the date and time of the expungement hearing.

On November 5, 2020, the Customers submitted a letter in opposition to Claimant's expungement request.

The Arbitrator conducted a recorded, telephonic hearing on January 28, 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 Customers did not participate in the expungement hearing but opposed the expungement request. The Arbitrator found that the Customers had notice of the expungement request and hearing. As stated in their letter, the Customers opposed Claimant's expungement request.

At the end of the expungement hearing, the Arbitrator verbally ordered Claimant to provide Post-Hearing Submissions. On March 1, 2021, Claimant filed the Post-Hearing Submission Brief.

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 related to Occurrence Number 1992805, 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. The Arbitrator found that Claimant contributed to the settlement to avoid the cost of litigation and that no inference of Claimant's culpability is warranted.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report; Claimant's Statement of Claim; Respondent's Statement of Answer; the settlement agreement; 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 1992805 from registration records maintained by the CRD for Claimant Stephen Paul Webb (CRD Number 5739417) with the understanding that, pursuant to Notice to Members 04-16, Claimant Stephen Paul Webb 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:

Pursuant to FINRA Rule 2080(b)(1)(A), the allegations are clearly erroneous. There were three findings that the Claimant was not at fault; Respondent's investigation, FINRA's investigation, and the Settlement Agreement in the underlying Superior Court case in King County, WA. The applicable provisions of the Settlement Agreement include the non-disparagement clause and the no-admission clause.

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 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:

November 5, 2020, postponement requested by Claimant = WAIVED

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

November 5, 2020, cancellation requested by Claimant = WAIVED

Discovery-Related Motion Fee

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision = \$ 200.00

Claimant submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 200.00

The Arbitrator has assessed \$100.00 of the discovery-related motion fees to Claimant.

The Arbitrator has assessed \$100.00 of the discovery-related motion fees to Respondent.

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 17, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: January 28, 2021 1 session

Total Hearing Session Fees = \$ 100.00

The Arbitrator has assessed \$75.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$25.00 of the hearing session fees to Respondent.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATOR

Clydia Jean Cuykendall

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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

Clydia Jean Cuykendall

Clydia Jean Cuykendall
Sole Public Arbitrator

03/17/2021

Signature Date

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March 18, 2021

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