

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Adam L. Way

Case Number: 20-01623

vs.

Respondent
Northwestern Mutual Investment Services

Hearing Site: Denver, Colorado

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 Adam L. Way (“Claimant”): Zachary T. Hayes-Macaluso, Esq., FA Expungement, LLC, Denver, Colorado.

For Respondent Northwestern Mutual Investment Services, LLC (“Respondent”): Thomas K. Anderson, Esq., Northwestern Mutual, Milwaukee, Wisconsin.

CASE INFORMATION

Statement of Claim filed on or about: May 21, 2020.

Claimant signed the Submission Agreement: May 21, 2020.

Statement of Answer filed by Respondent on or about: July 10, 2020.

Amended Statement of Answer filed by Respondent on or about: December 21, 2020.

Respondent signed the Submission Agreement: July 10, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of a termination statement from his Form U5, alleging that the information is defamatory in nature.

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

In the Amended Statement of Answer, Respondent asserted additional affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the U5 Termination Disclosure found under Occurrence Number 1739590 of Claimant's Central Registration Depository ("CRD") records, pursuant to a finding that the claims, allegations, and information are false, pursuant to FINRA Rule 2080(b)(1)(C), and that the public disclosure is defamatory to Claimant; and
2. Compensatory damages in the amount of \$1.00 from Respondent.

In the Statement of Answer, Respondent requested that all forum or hearing fees relating to this matter be assessed solely to Claimant.

In the Amended Statement of Answer, Respondent did not include any additional requests for relief.

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 21, 2020, Respondent filed a motion to amend its Statement of Answer ("Motion to Amend"). Claimant did not file a response to the Motion to Amend. On January 10, 2021, the Arbitrator granted the Motion to Amend.

The Arbitrator conducted a recorded, telephonic hearing on January 15, 2021 so the parties could present oral argument and evidence on Claimant's request for expungement.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and 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 the Reason for Termination and Termination Explanation in Section 3 of Claimant Adam L. Way's (CRD Number 4609168) Form U5 filed by Northwestern Mutual Investment Services, LLC (CRD Number 2881) on January 7, 2015 and maintained by the CRD. The Reason for Termination shall be changed to "Voluntary" and the Termination Explanation shall be deleted in its entirety and appear blank. This directive shall apply to all references to the Termination Explanation and Reason for Termination.

The Panel further recommends the expungement of all references to Occurrence Numbers 1739590 and 1739591 from the registration records maintained by the CRD for Claimant Adam L. Way. Any "Yes" answers should be changed to "No" as applicable.

Claimant Adam L. Way must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure (CRED) Department for review.

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

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 1, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing Date: January 15, 2021 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

Donald N. Tolin

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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

Donald N. Tolin

Donald N. Tolin
Sole Public Arbitrator

01/29/2021

Signature Date

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February 01, 2021

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