

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

---

In the Matter of the Arbitration Between:

Claimant

John William Boukamp, III

Case Number: 20-01824

vs.

Respondent

Merrill Lynch, Pierce, Fenner & Smith Inc.

Hearing Site: Detroit, Michigan

---

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 John William Boukamp, III (“Claimant”): Jonathan M. Sterling, Esq., Saretsky Hart Michaels + Gould PC, Birmingham, Michigan.

For Respondent Merrill Lynch, Pierce, Fenner & Smith Inc. (“Respondent”): Sarah K. Yates, Esq., Bressler, Amery & Ross, P.C., Birmingham, Alabama.

**CASE INFORMATION**

Statement of Claim filed on or about: June 10, 2020.

Claimant signed the Submission Agreement: June 9, 2020.

Statement of Answer filed on or about: August 3, 2020.

Respondent signed the Submission Agreement: August 3, 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 and asserted various affirmative defenses.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1683341, compensatory damages in the amount of \$1.00, and such further relief as the Arbitrator deems just and proper.

In the Statement of Answer, Respondent objected to Claimant's request for \$1.00 in compensatory damages.

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 January 6, 2021, Claimant filed a copy of a statement ("Statement") written by one of the three co-trustees of the trust that was the customer in Occurrence Number 1683341 ("Customer"), supporting Claimant's request for expungement.

On February 10, 2021, Claimant filed notice that the Statement of Claim and notice of the expungement hearing was served on all of the co-trustees. Claimant also filed Affidavits signed by the other two co-trustees ("Affidavits"), supporting Claimant's request for expungement.

The Arbitrator conducted a recorded, telephonic hearing on March 4, 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, took no position on the request for expungement.

None of the co-trustees of the Customer participated in the expungement 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 noted that the dispute related to Occurrence Number 1683341 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: Claimant's Statement of Claim, including exhibits; Claimant's testimony; and the Statement and Affidavits.

### **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 1683341 from registration records maintained by the CRD for Claimant John William Boukamp, III (CRD Number 1444222) with the understanding that, pursuant to Notice to Members 04-16, Claimant John William Boukamp, III 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 false.

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

Claimant testified that he was not involved in the dispute regarding income distribution between the Customer’s three co-trustees. Claimant further testified that fees for the Customer’s account were fixed on a monthly basis. Claimant stated that the information received in the complaint letter (“Complaint”) from an attorney on behalf of one of the co-trustees regarding fees and transactions in the Customer’s account was inaccurate. Respondent’s review of the Complaint supported Claimant’s testimony regarding the distribution of fees and that no excessive trading occurred in the account. The Statement and Affidavits received from the co-trustees all affirm that the fund distribution issue was a dispute between the co-trustees. After receiving an explanation in response to the Complaint, all three co-trustees affirmed that the allegation of excessive trading by Claimant was a result of their misunderstanding. The co-trustees all affirmed that Claimant continues to be their financial advisor.

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 30, 2020	1 session		
One (1) hearing session on expungement request @ \$50.00/session		= \$	50.00
Hearing: March 4, 2021	1 session		
<hr/>			
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**

Kevin R. Zehe

-

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**

***Kevin R. Zehe***

\_\_\_\_\_  
Kevin R. Zehe  
Sole Public Arbitrator

**03/09/2021**

\_\_\_\_\_  
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 09, 2021

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