

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Edward Ernest Blacka

Case Number: 20-01845

vs.

Respondent
Lincoln Financial Advisors Corporation

Hearing Site: Pittsburgh, Pennsylvania

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

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Edward Ernest Blacka: Jennifer P. Farrar, Esq., Farrar Law PLLC, Tomball, Texas.

For Respondent Lincoln Financial Advisors Corporation: Kyle B. Osting, Esq., Lincoln Financial Group, Fort Wayne, Indiana.

CASE INFORMATION

Statement of Claim filed on or about: June 11, 2020.

Edward Ernest Blacka signed the Submission Agreement: June 11, 2020.

Statement of Answer filed by Respondent on or about: August 31, 2020.

Lincoln Financial Advisors Corporation signed the Submission Agreement: August 18, 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 did not contest Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1455048

and 1536819; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not set forth a specific relief request.

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 April 19, 2021, Claimant advised that the customer in Occurrence Number 1536819 was served with the Statement of Claim and notice of the date and time of the expungement hearing.

On May 4, 2021, Claimant advised that a public records search of the customers in Occurrence number 1455048 revealed that the customer passed away on March 9, 2021.

The Arbitrator conducted a recorded hearing by videoconference on May 11, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

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

The customer for Occurrence Number 1536819 did not participate in the expungement hearing. The Arbitrator found that the customer had notice of the expungement request and 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 occurrences in the CRD.

The Arbitrator noted that the disputes related to Occurrence Numbers 1455048 and 1536819 were 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 pleadings; Claimant's testimony; Claimant's BrokerCheck® Report; and the exhibits.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, 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 1455048 from registration records maintained by the CRD for Claimant Edward Ernest Black (CRD Number 1489265) with the understanding that, pursuant to Notice to Members 04-16, Claimant Edward Ernest Black 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:

Claimant demonstrated that the claim listed in the CRD was false and incorrect. The claim was denied, investigated, and found to be false. The customer did not pursue the claims beyond an initial complaint.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1536819 from registration records maintained by the CRD for Claimant Edward Ernest Black (CRD Number 1489265) with the understanding that, pursuant to Notice to Members 04-16, Claimant Edward Ernest Black 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:

Claimant demonstrated that the claim listed in the CRD was false and incorrect. The claim was denied, investigated, and found to be false. The customer did not pursue the claims beyond an initial complaint.

3. 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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent Lincoln Financial Advisors Corporation is assessed the following:

Member Surcharge = \$ 150.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

February 9, 2021, postponement requested by Claimant. = \$ 50.00

Total Postponement Fees = \$ 50.00

The Arbitrator has assessed the total postponement fees to Claimant.

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:

February 9, 2021, cancellation requested by Claimant = \$ 600.00

Total Last-Minute Cancellation Fees = \$ 600.00

The Arbitrator has assessed the total last-minute cancellation fees to Claimant.

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: November 17, 2020 1 session

One (1) hearing session on expungement request @ \$5.00/session = \$ 50.00
Hearing: May 11, 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

John James McGovern, Jr. - 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

John James McGovern, Jr.

John James McGovern, Jr.
Sole Public Arbitrator

05/18/2021

Signature Date

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May 19, 2021

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