

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Daniel John Ruediger

Case Number: 20-01850

vs.

Respondent
Ameriprise Financial Services, LLC

Hearing Site: Portland, Oregon

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 Daniel John Ruediger (“Claimant”): Jonathan M. Sterling, Esq., Saretsky Hart Michaels & Gould, P.C., Birmingham, Michigan.

For Respondent Ameriprise Financial Services, LLC (“Respondent”): Howard Klausmeier, Esq., Ameriprise Financial Services, LLC, Troy, Michigan.

CASE INFORMATION

Statement of Claim filed on or about: June 11, 2020.
Claimant signed the Submission Agreement: June 11, 2020.

Statement of Answer filed by Respondent on or about: August 6, 2020.
Respondent signed the Submission Agreement: August 6, 2020.

CASE SUMMARY

Claimant seeks expungement of customer dispute information from registration records maintained by the Central Registration Depository (“CRD”).

Respondent supported Claimant’s expungement request and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1924089 from his CRD records;
2. Compensatory damages in the amount of \$1.00; and
3. Such other and further relief as the Arbitrator deems just and proper.

In the Statement of Answer, Respondent requested:

1. An award to be issued that recommends expungement; and
2. Any and all relief requested against Respondent to be denied.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On December 18, 2020, Claimant filed an Affidavit signed by Claimant's counsel advising that the customer in Occurrence Number 1924089 ("Customer") was served with the Statement of Claim and the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on January 19, 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 Customer 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 occurrence in the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 1924089 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 testimony; Claimant's BrokerCheck® Report; and Exhibits submitted on behalf of Claimant.

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 1924089 from registration records maintained by the CRD for Claimant Daniel John Ruediger (CRD Number 2740109) with the understanding that, pursuant to Notice to Members 04-16, Claimant Daniel John Ruediger 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.

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The claim, allegation, or information is false.

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

The Customer, a resident of Bend, OR, contended in a December 2016 email to Respondent that Claimant, a resident of Portland, OR, recommended an annuity investment to him that was unsuitable in that it carried unreasonable surrender charges, and was inconsistent with his objectives. Upon review, Respondent found the annuity to be appropriate to the Customer’s goals and objectives as expressed by him and, by letter dated January 24, 2017, rejected his complaint. The Customer did not pursue the matter additionally in any forum, and no money or other consideration was exchanged.

The evidence at the January 19, 2021 hearing established that Claimant was not involved in the alleged unsuitable investment recommendation. The contact with the Customer was made by a different representative of Respondent, who disclosed the nature of the annuity investment and explained the surrender fee structure to him and his wife. Claimant was not a supervisor of the representative who worked with the Customer. Claimant was not directly or indirectly involved in the transaction at issue and did not know of it until after the other representative quit working for Respondent. Due to an apparent psychiatric issue, the other representative began to harass Claimant and his family. The harassment took the forms of alarming social media posts and, as pertinent here, making false accusations about him to his clients and co-workers. At one point, the other representative travelled across several states to Respondent’s headquarters and attempted to impersonate Claimant and thereby injure his reputation. The other representative persuaded the Customer to file a complaint against Claimant with Respondent.

Based on these facts, the information in the CRD system is “clearly erroneous” under FINRA Rule 2080(b)(1)(A) in that Claimant had no role in influencing the Customer to purchase the annuity or in implementing the purchase. Even if he had, the evidence shows that the annuity was not unsuitable for the Customer’s investment goals and timeline. The Customer’s email contending otherwise is not credible given his execution of the “Variable Annuity Purchase Summary and Disclosure” form.

The evidence clearly establishes that Claimant was not involved in any sale to the Customer. In fact, he was unaware of the transaction that gave rise to the alleged investment related sales practice violation until months after the other representative

left the employ of Respondent. As such, Claimant is entitled to expungement of the incident from his CRD under FINRA Rule 2080(b)(1)(B).

The allegation is also false under Rule 2080(b)(1)(C). Claimant played no role in the Customer's decision to invest in the annuity and was not the supervisor of the representative who worked with the Customer. As such, Claimant is not chargeable with failing to supervise the other representative.

Finally, I agree with Respondent that retaining the information on Claimant's CRD records would serve no positive regulatory purpose and would in fact create a false impression of impropriety where none exists.

For all these reasons, expungement of Occurrence Number 1924089 from Claimant Daniel John Ruediger's CRD records is appropriate and should be granted.

- 2. Claimant's claim for \$1.00 in compensatory damages is denied.
- 3. Any and all further requests for relief 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
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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 firm that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent is 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: October 7, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	=\$	50.00
Hearing Date: January 19, 2020	1 session	

Total Hearing Session Fees	=\$	100.00
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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

Kenneth James Pedersen

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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

Kenneth James Pedersen

Kenneth James Pedersen
Sole Public Arbitrator

01/29/2021

Signature Date

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January 29, 2021

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