

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

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In the Matter of the Arbitration Between:

Claimant  
Joseph Clay Young IV

Case Number: 20-01867

vs.

Respondent  
A. G. Edwards & Sons, Inc.

Hearing Site: Memphis, Tennessee

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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 Joseph Clay Young IV (“Claimant”): Brian Luther, Esq., FA Expungement, LLC, Denver, Colorado.

For Respondent A. G. Edwards & Sons, Inc. (“Respondent”): Geoff Beckham, Esq., Wells Fargo Legal Department, San Francisco, California.

**CASE INFORMATION**

Statement of Claim filed on or about: June 12, 2020.  
Claimant signed the Submission Agreement: June 12, 2020.

Statement of Answer filed by Respondent 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.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Numbers 709644, 979606, and 1162432 from the CRD records pursuant to findings that the claims, allegations, or information is factually impossible or clearly erroneous pursuant to FINRA Rule 2080(b)(1)(A) and that the claims, allegations, or information is false pursuant to FINRA Rule 2080(b)(1)(C); and
2. Compensatory damages in the amount of \$1.00 from Respondent.

In the Statement of Answer, Respondent requested:

1. Claimant's request for \$1.00 in damages be denied; and
2. All forum and hearing fees assessed in connection with this matter be assessed against Claimant, pursuant to FINRA Rule 13805(d).

At the hearing, Claimant withdrew 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 October 15, 2020, Claimant advised that he sent letters, including copies of Statement of Claim, Initial Pre-Hearing Conference Scheduling Order, and notice of the expungement hearing to the customer in Occurrence Number 709644 ("Company M"), the estate of customer in Occurrence Number 979606 ("Mr. C"), and the customer in Occurrence Number 1162432 ("Ms. B"), all via regular and certified USPS mail. On the same date, Claimant also filed an obituary for Mr. C. On December 1, 2020 Claimant filed copies of the USPS delivery confirmations.

Hereinafter, Company M, Mr. C, and Ms. B are collectively referred to as "Customers."

On December 4, 2020, Claimant filed a letter from Ms. B dated November 14, 2020 in which she supported Claimant's request for expungement of Occurrence Number 1162432.

The Arbitrator conducted a recorded, telephonic hearing on December 8, 2020 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 person at the expungement hearing. The Arbitrator found that the Customers and/or their estates had notice of the expungement request and hearing. The Arbitrator noted, that as stated in her November 14, 2020 letter, Ms. B supported Claimant's expungement request.

The Arbitrator reviewed the BrokerCheck® Report for Claimant. The Arbitrator noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrences in the CRD.

The Arbitrator did not review the settlement documents for occurrence number 709644 as Claimant was unable to provide the settlement documents because Respondent no longer had a copy due to their document retention period policy and Claimant did not have a copy because

he was not a party to the settlement. The Arbitrator found that Claimant made sufficient efforts to locate the settlement agreement.

Based on the review of the BrokerCheck® report and Claimant's testimony, the Arbitrator considered the amount of payments made to any party and noted that while Claimant contributed to the settlement amount, he only did so because it was early in his career and he was not sure of the legal ramifications of his contribution. The Arbitrator could not consider the other relevant terms and conditions of the settlement or whether the settlement of conditions on any party not opposing the expungement request.

The Arbitrator noted that the dispute related to Occurrence Numbers 979606 and 1162432 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: Claimant's Statement of Claim; Claimant's testimony; and oral statements made by Respondent's counsel at the hearing and written allegations made in Respondent's Statement of Answer; Claimant's oral sworn testimony; Ms. B's letter dated November 14, 2020; and a letter dated June 10, 2020 from Claimant's assistant.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

The Arbitrator recommends the expungement of all references to the Underlying Complaints, Occurrence Numbers 709644, 979606, and 1162432, from registration records maintained by the CRD for Claimant Joseph Clay Young IV (CRD Number 2250844) with the understanding that, pursuant to Notice to Members 04-16, Claimant Joseph Clay Young IV 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.

In each case and pursuant to Rule 13805 of the Code of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claims, allegations, or information are 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:

#### **Occurrence Number 709644 (in which Company M was the customer)**

According to the oral testimony of Claimant and the written exhibit provided by Claimant's assistant at the time, Claimant was not involved in the transaction as he was not present in the office when the trade was made and did not participate in the transaction. In Claimant's absence, his assistant mistakenly sent Company M the book page and the sale requested by Company M was made by his branch manager. There was no evidence that the Claimant was involved in any investment related sales practice violation.

**Occurrence Number 979606 (in which Mr. C was the customer)**

In this occurrence, Claimant, at the request of Mr. C, opened a Certificate of Deposit ("CD"). At the time of the purchase, Claimant explained that the CD should be held until its maturity. Mr. C was concerned about the fluctuating value of the CD. At a later meeting, Claimant reminded Mr. C that the daily market pricing fluctuations did not impact Mr. C's intention to hold the CD until maturity. Mr. C was satisfied with Claimant's explanation and did not pursue his complaint any further. Claimant's employer, Respondent, closed the complaint with no action taken and Mr. C continued to be Claimant's client thereafter with no subsequent complaints. There was no evidence of any misrepresentation or omission of material facts made to the customer.

**Occurrence Number 1162432 (in which Ms. B was the customer)**

According to the testimony of Ms. B, in the absence of Claimant at his office, she had a conversation with Claimant's branch manager ("Branch Manager"). The purpose of her meeting was to discuss her options, including her ability to use the funds to buy a plane ticket to visit her mother in Virginia who was very ill. The Branch Manager advised Ms. B that he could not access the money on that date. Ms. B was in an emotional state and did not intend to file a formal complaint. Nevertheless, the Branch Manager "inferred" that Claimant had done something wrong. The Branch Manager prepared a letter on the customer's complaint and Ms. B signed it. Ms. B was unaware that a complaint would be filed in Claimant's CRD records. She requested that this complaint be expunged. There was no evidence that the Claimant was involved in any investment related sales practice violation.

In all three cases, the BrokerCheck® reports showed information that was false, factually impossible, and clearly erroneous.

**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 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: October 5, 2020 1 session

One (1) hearing session on expungement request with a single Arbitrator @ \$50.00/session = \$ 50.00  
Hearing Date: December 8, 2020 1 session

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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**

A.J. Seier

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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**

***A.J. Seier***

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A.J. Seier  
Sole Public Arbitrator

**01/24/2021**

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Signature Date

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January 25, 2021

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