

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Richard Lee Pierce

Case Number: 20-02133

vs.

Respondent
Ameriprise Financial Services, Inc.
n/k/a Ameriprise Financial Services, LLC

Hearing Site: Columbus, Ohio

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 Richard Lee Pierce (“Claimant”): Kurt Zimmerman, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Ameriprise Financial Services, Inc. n/k/a Ameriprise Financial Services, LLC (“Respondent”): Howard M. Klausmeier, Esq., Ameriprise Financial Services, LLC, Troy, Michigan.

CASE INFORMATION

Statement of Claim filed on or about: July 7, 2020.
Claimant signed the Submission Agreement: July 6, 2020.

Statement of Answer filed on or about: August 26, 2020.
Respondent signed the Submission Agreement: August 26, 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 concurred with Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1148415,

an award of compensatory damages in the amount of \$1.00, and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that an award be issued recommending expungement of Occurrence Number 1148415 from Claimant's CRD registration records and denying all relief requested against Respondent.

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, Claimant advised that the customer in Occurrence Number 1148415 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On December 29, 2020, Claimant filed an Affidavit confirming that the Customer was served with the Notice. Claimant also filed a copy of the FedEx tracking information available online for the Notice.

The Arbitrator conducted a recorded, telephonic hearing on February 2, 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, concurred with 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 was unable to review the settlement documentation with respect to Occurrence Number 1148415. The Arbitrator noted Claimant's representation that, due to the time period between the Customer's complaint and the expungement hearing, a search failed to find evidence of the settlement documentation. Based on Claimant's testimony, the Arbitrator considered the amount of payments made to any party to the settlement and considered other relevant terms and conditions of the settlement. The Arbitrator noted Claimant's representation that he did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony, the Statement of Claim and Statement of Answer, and Claimant's BrokerCheck® Report.

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 1148415 from registration records maintained by the CRD for Claimant Richard Lee Pierce (CRD Number 2854001) with the understanding that, pursuant to Notice to Members 04-16, Claimant Richard Lee Pierce 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; and

The claim, allegation, or information is false.

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

Claimant testified that the Customer knowingly entered into a variable annuity contract and completed and executed all applicable documentation to open the investment. Claimant also testified that he reviewed all relevant information about the investment with the Customer. Claimant testified that it is nearly impossible to conduct unauthorized transactions using a variable annuity and that there were no unauthorized transactions that occurred with this investment or this Customer. Once the Customer initiated a complaint, Respondent unilaterally decided to refund the variable annuity purchase price in full to the Customer. The Customer did not suffer a surrender charge and was made whole, as if she had never entered into the transaction. Claimant was not asked to, and did not, contribute to the refund of the Customer’s purchase price. The refund was done strictly to satisfy the Customer. In addition, Claimant’s sales commission on the product was reversed.

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
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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 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: October 27, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: February 2, 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

Mark A. Sipper

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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

Mark A. Sipper

Mark A. Sipper
Sole Public Arbitrator

02/16/2021

Signature Date

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February 16, 2021

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