

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

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In the Matter of the Arbitration Between:

Claimant  
Scott D. Smith

Case Number: 20-02163

vs.

Respondent  
Ameriprise Financial Services, LLC

Hearing Site: Chicago, Illinois

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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

**REPRESENTATION OF PARTIES**

For Claimant Scott D. Smith (“Claimant”): Jonathan M. Sterling, Esq., Saretsky Hart Michaels + Gould PC, Birmingham, Michigan.

For Respondent 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 9, 2020.  
Claimant signed the Submission Agreement: July 8, 2020.

Statement of Answer filed on or about: August 26, 2020.  
Respondent signed the Submission Agreement: August 28, 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 1122426, compensatory damages in the amount of \$1.00, and such other and further relief as the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested expungement of Occurrence Number 1122426 from Claimant's CRD record and denial of all requested damages against Respondent.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On December 29, 2020, Claimant advised that the customers in Occurrence Number 1122426 ("Customers") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice").

The Arbitrator conducted a recorded, telephonic hearing on February 4, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated participate in the expungement hearing and, as stated in the Statement of Answer, concurred with the request for expungement.

The Customers did not participate in the expungement hearing expungement request. 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 1122426 was not settled and, therefore, there was no settlement documentation to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony and Claimant's Exhibit 3.

### **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 1122426 from registration records maintained by the CRD for Claimant Scott David Smith (CRD Number 2186611) with the understanding that, pursuant to Notice to Members 04-16, Claimant Scott David Smith 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:

Evidence and testimony presented at the hearing demonstrated that the allegation against Claimant is false. Claimant prepared a Financial Advisory Proposal for the Customers, which outlined the Customers' goals to maintain an adequate cash reserve and provide for family needs in the events of disability or death. The Customers were given strategies to meet these goals. As part of the financial plan, the Customers chose to purchase variable universal life insurance. Based upon the Financial Advisory Proposal and Claimant's testimony, the variable universal life insurance was a suitable product.

Additional sub-account options became available within days after the product was sold. Claimant testified credibly that he discussed the additional subaccount options with the Customers at their quarterly meetings. Furthermore, Respondent offered the Customers a one-time reimbursement of the difference between their account value at the time and the value the account would have had if the sub-accounts had been purchased when they became available. However, the Customers did not respond to the offer and did not pursue the complaint.

2. Claimant's claim for \$1.00 in compensatory damages is denied.
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 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 20, 2020	1 session		
One (1) hearing session on expungement request @ \$50.00/session		=\$	50.00
Hearing: February 4, 2021	1 session		
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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**

Steven H. Vogel

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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**

***Steven H. Vogel***

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Steven H. Vogel  
Sole Public Arbitrator

**02/11/2021**

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Signature Date

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February 11, 2021

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