

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Mark Scott Dutram

Case Number: 20-02216

vs.

Respondent
LPL Financial LLC

Hearing Site: Jacksonville, Florida

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 Mark Scott Dutram: Harris Freedman, Esq., HLBS Law, Westminster, Colorado.

For Respondent LPL Financial LLC: Kelsey Vasko, Esq., LPL Financial, LLC, San Diego, California.

CASE INFORMATION

Statement of Claim filed on or about: July 7, 2020.

Mark Scott Dutram signed the Submission Agreement: July 14, 2020.

Statement of Answer filed by Respondent on or about: August 26, 2020.

LPL Financial LLC 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 did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1683751; 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 objected to Claimant’s request for compensatory

damages in the amount of \$1.00.

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 February 22, 2021, Claimant filed an Affidavit confirming that the customer in Occurrence Number 1683751 (“Customer”) was served with the Statement of Claim and notice of the date and time of the expungement hearing.

On March 29, 2021, the Customer, through counsel, filed a response in which he objected to Claimant’s request for expungement and asserted, among other things, that Claimant: failed to satisfy any of the standards set forth in FINRA Rule 2080; misrepresented the investment objective of the Customer’s account holding the Behringer Harvard stock in the Statement of Claim for this proceeding; and did not take the necessary precautions under FINRA’s guidance for complex products prior to placing the Customer’s funds in a non-publicly traded Real Estate Investment Trust.

The Arbitrator conducted a recorded, telephonic hearing on April 5, 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 also participated in the expungement hearing and opposed the expungement request.

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. Claimant’s request for expungement of Occurrence Number 1683751 from Claimant Mark Scott Dutram’s (CRD Number 2416021) registration records maintained by the CRD is denied.
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

*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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge = \$ 150.00

Postponement Fees

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

April 1, 2021, postponement requested by Claimant = WAIVED

Total Postponement Fee = WAIVED

The Arbitrator has waived the total postponement fee.

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:

April 1, 2021, cancellation requested by Claimant = WAIVED

Total Last-Minute Cancellation Fee = WAIVED

The Arbitrator has waived the last-minute cancellation fee.

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:

Two (2) pre-hearing sessions with a single Arbitrator @ \$50.00/session = \$ 100.00

Pre-Hearing Conferences: November 17, 2020 1 session

April 1, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00

Hearing: April 5, 2021 1 session

Total Hearing Session Fees = \$ 150.00

The Arbitrator has waived the \$50.00 hearing session fee for the April 1, 2021, pre-hearing conference, and has assessed the rest of the hearing session fees to Claimant.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATOR

Richard S. Zaifert

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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

Richard S. Zaifert

Richard S. Zaifert
Sole Public Arbitrator

04/08/2021

Signature Date

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April 08, 2021

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