

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Joseph R. Dimauro

Case Number: 20-02227

vs.

Respondent
Equitable Advisors, LLC

Hearing Site: New York, New York

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 Joseph R. Dimauro: Brittany Weiner, Esq., Imbesi Law Group P.C., New York, New York.

For Respondent Equitable Advisors, LLC: Annette K. Ebright, Esq., Equitable Financial Life Insurance Company, Charlotte, North Carolina.

CASE INFORMATION

Statement of Claim filed on or about: July 15, 2020.

Joseph R. Dimauro signed the Submission Agreement: July 15, 2020.

Statement of Answer filed by Respondent on or about: July 29, 2020.

Equitable Advisors, LLC signed the Submission Agreement: July 22, 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 expungement of Occurrence Number 1419864 and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent requested that Claimant take nothing against it and that the Arbitrator deny Claimant's request for \$1.00 in compensatory damages; to the extent that Respondent is required to participate in the proceedings, that Respondent be awarded the costs of the proceedings; and an order that all costs of this proceeding, including member forum fees, be assessed against Claimant.

At the close of 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 November 3, 2020, Claimant filed an Affidavit advising that the customer in Occurrence Number 1419864 was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded telephonic hearing on December 15, 2020 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and 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 1419864 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: the hearing exhibits including the client signature page on the application for the policy showing that Claimant's manager/supervisor was the agent, the update of the Form U4 disclosure showing the customer's complaint was withdrawn, and the follow-up letter from Respondent to the customer regarding actions of the manager/supervisor, with no reference to 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 1419864 from registration records maintained by the CRD for Claimant Joseph R. Dimauro (CRD Number 4865562) with the understanding that, pursuant to Notice to Members 04-16, Claimant Joseph R. Dimauro 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; and the claim, allegation, or information is false.

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

Claimant’s counsel advised that the complaint was made by the customer and the beneficiary of the account, however, the account documents refer to only one customer, the customer who signed the policy opening documents.

All of the subparts of Rule 2080 are present and applicable. Claimant did not meet the customer until after she entered into the subject variable life insurance policy. The signatory on the variable life insurance policy was Claimant’s manager and direct supervisor, not Claimant. Claimant received no compensation by reason of the sale of the policy. In correspondence with the customer, Respondent referenced only Claimant’s manager/supervisor, not Claimant. Following the customer’s complaint, the customer acknowledged in writing that she had not dealt with Claimant regarding the policy, and Respondent updated Claimant’s Form U4 disclosure showing that the customer’s complaint was withdrawn.

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 Equitable Advisors, LLC 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) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing Date: December 15, 2020 1 session		
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Total Hearing Session Fees	= \$	50.00

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

Joan Maxine Secofsky

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Arbitrator's Signature

Joan Maxine Secofsky

Joan Maxine Secofsky
Sole Public Arbitrator

01/12/2021

Signature Date

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January 13, 2021

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