

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Anthony J. Bonanno

Case Number: 20-02354

vs.

Respondent
Park Avenue Securities, LLC

Hearing Site: Indianapolis, Indiana

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 Anthony J. Bonanno (“Claimant”): Michael O’Gara, Esq. and Dochtor Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Park Avenue Securities, LLC (“Respondent”): Kristin L. Wynne, Esq., The Guardian Life Insurance Company of America, Holmdel, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: July 24, 2020.
Claimant signed the Submission Agreement: July 24, 2020.

Statement of Answer filed on or about: August 18, 2020.
Respondent signed the Submission Agreement: August 24, 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 but denied any allegation of wrongdoing.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1586280 and 1739143; 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 opposed Claimant's request for monetary relief.

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 17, 2021, Claimant advised that the customers in Occurrence Numbers 1586280 ("Customers A and B") and 1739143 ("Customers C and D") (collectively, "Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notices"). On February 22, 2021, Claimant filed an Affidavit confirming that the Customers were served with the Notices. Claimant also filed the FedEx tracking information available online for the Notices.

The Arbitrator conducted a recorded, telephonic hearing on April 1, 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.

Customer D also participated in the expungement hearing and opposed the expungement request.

Customers A, B, and C did not participate in the expungement hearing. The Arbitrator found that Customers A, B, and C 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 occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 1739143, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant contributed to the settlement amount.

The Arbitrator noted that the dispute related to Occurrence Number 1586280 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 Exhibits 1-5, BrokerCheck® Report, Claimant's testimony, and Customer D's testimony.

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 Numbers 1586280 and 1739143 from registration records maintained by the CRD for Claimant Anthony J. Bonanno (CRD Number 1534308) with the understanding that, pursuant to Notice to Members 04-16, Claimant Anthony J. Bonanno 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 factually impossible or clearly erroneous.

The Arbitrator has made the above Rule 2080 finding based on the following reason:

Occurrence Number 1586280:

Customer B alleged that her annuity was exchanged for another annuity and her account was transferred to Respondent (“Park Account”), both, without her input or knowledge. Customer B reviewed, completed, and signed several documents in Claimant’s presence to permit both transactions. Shortly thereafter, both transactions were reversed at Customer B’s request. Customer B kept the gains in the Park Account but received a refund from Guardian. Given Customer B’s completion of the relevant transactional documents, receipt of monthly statements, and communications with Claimant, it is factually impossible that these transactions took place without her input or knowledge.

Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

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

Occurrence Number 1739143:

Customers C and D alleged that Claimant solicited them to purchase unregistered securities from an unregistered financial advisor. Customers C and D commenced a lawsuit in state court, which settled during mediation. Respondent paid the vast majority of the settlement funds. Claimant and the alleged unregistered representatives contributed nominal sums to the overall settlement. Customers C and D believed that, due to the similarity in company names and the proximal location of Claimant’s office *vis-a-vis* the other advisors, that they were all part of the same entity, group, and operation. Customers C and D sought investments that Claimant and Respondent could not offer. Claimant referred Customers C and D to the advisors; however, Claimant received no remuneration for the referral and had no participation in the investments Customers C and D made with these other advisors.

Further, Claimant did not solicit Customers C and D to purchase unregistered securities and was not involved in their acquisition of the same.

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

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: November 13, 2020	1 session	
One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: April 1, 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

Tracy L. Allen - 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

Tracy L. Allen

Tracy L. Allen
Sole Public Arbitrator

04/13/2021

Signature Date

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April 13, 2021

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