

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Brian Bushwell

Case Number: 20-02361

vs.

Respondents
Securian Financial Services, Inc.
WS Griffith Securities, Inc.

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. Members

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Brian Bushwell: Michael H. Ference, Esq., Sichenzia Ross Ference LLP, New York, New York.

For Respondent Securian Financial Services, Inc.: Beth Wiederholt, Esq., Securian Financial Services, Inc., St. Paul, Minnesota.

Respondent WS Griffith Securities, Inc. did not enter an appearance in this matter.

CASE INFORMATION

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

Statement of Answer filed by Respondent Securian Financial Services, Inc. on or about: September 11, 2020.
Securian Financial Services, Inc. signed the Submission Agreement: September 9, 2020.

Respondent WS Griffith Securities, Inc. did not file a Statement of Answer or sign the Submission Agreement.

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 Securian Financial Services, Inc. took no position on Claimant's expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1042248 and 1105437; and compensatory damages in the amount of \$1.00 from Respondents.

In the Statement of Answer, Respondent Securian Financial Services, Inc. objected to Claimant's request for compensatory damages.

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.

Respondent WS Griffith Securities, Inc. did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and is bound by the determination of the Arbitrator on all issues submitted.

On March 8, 2021, Claimant advised that the customers in Occurrence Numbers 1042248 and 1105437 were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded hearing by videoconference on March 16, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent Securian Financial Services, Inc. participated in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement.

Respondent WS Griffith Securities, Inc. did not participate in the expungement hearing.

The customers did not participate in the expungement hearing. The Arbitrator found that the customers 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 reviewed the documentation related to Occurrence Number 1042248. The Arbitrator noted that the fees and surrender charges associated with the investment product were returned to the customers and there was no formal settlement agreement to review. The Arbitrator considered the amount of payment made to any party to the settlement. Based on

Claimant's testimony, the Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount.

The Arbitrator noted that the dispute related to Occurrence Number 1105437 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings; exhibits; Claimant's BrokerCheck® Report; and Claimant'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 Number 1042248 from registration records maintained by the CRD for Claimant Brian Bushwell (CRD Number 2094279) with the understanding that, pursuant to Notice to Members 04-16, Claimant Brian Bushwell 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, 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:

The customers alleged poor customer service, failure to disclose fees, and that their forged signatures were included on the application documents. The customers were provided the signed documents which disclosed the fees associated with the life insurance policy. In addition, Claimant testified that the signatures on all documents were analyzed by a handwriting expert who concluded that the signatures were not forged. That evidence was provided to the NASD which investigated and closed the matter with a no-action letter. The matter was also investigated by Respondent WS Griffith Securities, Inc. which denied the complaint. Moreover, the matter was not settled; instead, a business decision was made to return the fees and surrender charges associated with the policy to the customers. Claimant did not contribute to the funds that were returned to the customers.

Claimant communicated with the customers throughout the life insurance policy application and execution process and shared additional details and aspects of the product with the customers. For these reasons, Claimant's request for expungement is granted based on Rule 2080 (b)(1)(C) that the claim, allegation, or information is false.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1105437 from registration records maintained by the CRD for Claimant Brian Bushwell (CRD Number 2094279) with the understanding that, pursuant to Notice to Members 04-16, Claimant Brian Bushwell 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, 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:

The customer complaint was investigated and denied by Respondent WS Griffith Securities, Inc. The customer alleged that the investment in a variable annuity (in fact, the investment was a variable life insurance policy) was unsuitable. The evidence presented by Claimant showed that the customer had multiple opportunities to review the product's details, including the potential risks of the product, and indicated her agreement with her signatures on all documents such as the illustration and the prospectus. In fact, a couple of months prior to the execution of the policy, the customer had an opportunity to rescind the entire transaction and chose not to do so. Furthermore, the customer did not file a claim in arbitration or in court and the matter was not settled.

Claimant communicated with the customer throughout the life insurance policy application and execution process and shared additional details and aspects of the product with the customer. For these reasons, Claimant's request for expungement is granted based on Rule 2080 (b)(1)(C) that the claim, allegation, or information is false.

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 person at the time of the events giving rise to the dispute. Accordingly, as parties, Respondents Securian Financial Services, Inc. and WS Griffith Securities, Inc. are each 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 with a single Arbitrator @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: November 9, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: March 16, 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

Josian Antoine

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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

Josian Antoine

Josian Antoine
Sole Public Arbitrator

03/24/2021

Signature Date

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.

March 25, 2021

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