

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Brian David Drolet

Case Number: 20-02393

vs.

Respondent
Mutual of Omaha Investor Services, Inc.

Hearing Site: Dallas, Texas

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 Brian David Drolet (“Claimant”): Kurt Zimmerman, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Mutual of Omaha Investor Services, Inc. (“Respondent”): Trenten P. Bausch, Esq. and Adam W. Barney, Esq., Cline Williams Wright Johnson & Oldfather, L.L.P., Omaha, Nebraska.

CASE INFORMATION

Statement of Claim filed on or about: July 28, 2020.
Claimant signed the Submission Agreement: July 28, 2020.

Statement of Answer filed on or about: September 8, 2020.
Respondent signed the Submission Agreement: September 9, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim alleging that the Form U5 filed by Respondent, as part of registration records maintained by the Central Registration Depository (“CRD”), is defamatory in nature.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses. Respondent took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement and/or modification of the Form U5 filed by Respondent and relevant portions of the related Form U4, compensatory damages in the amount of \$1.00, and any other relief as the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that the Statement of Claim be denied to the extent it seeks monetary damages against it, that an award be entered in favor of it, that forum fees be taxed to Claimant, that reasonable attorneys' fees be assessed in its favor where appropriate, and such further relief as the circumstances may justify.

At the hearing, Claimant withdrew the request for \$1.00 in compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

AWARD

After considering the pleadings, the testimony and evidence presented at the 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 the Reason for Termination and Termination Explanation in Section 3 of Brian David Drolet's (CRD Number 5564860) Form U5 filed by Respondent Mutual of Omaha Investor Services, Inc. on August 22, 2014 and maintained by the CRD. The Reason for Termination shall be changed to "Voluntary" and the Termination Explanation should be deleted in its entirety and shall appear blank. This directive shall apply to all references to the Reason for Termination and Termination Explanation.

The Arbitrator further recommends the expungement of all references to Occurrence Numbers 1719772 and 1719773 maintained by the CRD for Brian David Drolet. Any "Yes" answers should be changed to "No" as applicable.

The Arbitrator recommends expungement based on the defamatory nature of the information. The above recommendations are made with the understanding that the registration records are not automatically amended. Claimant Brian David Drolet must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure Department for review.

2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, are denied.

FEES

Pursuant to the Code of Arbitration Procedure, 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 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 18, 2020 1 session

One (1) hearing session @ \$50.00/session = \$ 50.00
Hearing: March 10, 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

Robert J. Gregory

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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

Robert J. Gregory

Robert J. Gregory
Sole Public Arbitrator

03/11/2021

Signature Date

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March 11, 2021

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