

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Debra Ann Bushman

Case Number: 20-02489

vs.

Respondent
Janney Montgomery Scott 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 Debra Ann Bushman: Bradley D. Schnur, Esq., Law Office of Bradley D. Schnur, Esq. PC, Jericho, New York.

For Respondent Janney Montgomery Scott LLC: Jill B. Clarke, Esq., Janney Montgomery Scott LLC, Philadelphia, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on or about: August 4, 2020.

Debra Ann Bushman signed the Submission Agreement: August 3, 2020.

Statement of Answer filed by Respondent on or about: August 10, 2020.

Janney Montgomery Scott LLC signed the Submission Agreement: August 11, 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 1156518; 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 did not delineate a specific relief request and stated that it does not intend to participate in this proceeding.

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 September 1, 2021, Claimant filed a notice confirming priority mail delivery to the Customers on August 26, 2021 of the Statement of Claim and notice of the date and time of the expungement hearing. The Customers did not respond to the notice.

The Arbitrator conducted a recorded, telephonic hearing on September 9, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not to participate in the expungement hearing.

The Customers also 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 occurrence in the CRD.

On or about July 6, 2021, Respondent's counsel, Jill Clarke, provided Claimant with a Declaration stating, among other things, that she received multiple requests from Claimant to provide a copy of the underlying settlement agreement related to Occurrence Number 1156518. Ms. Clarke further represented that she conducted a reasonable and diligent search of Respondent's files but, due to the age of the matter, was unable to locate the actual settlement agreement between the Customers and Respondent. She also stated that she had no reason to believe that the disposition of the matter set forth on Claimant's CRD was inaccurate, which states that Claimant did not contribute to the settlement amount and that the parties agreed to enter into a stipulated award recommending expungement of said matter from Claimant's CRD.

On or about July 22, 2021, Claimant filed a copy of her July 8, 2021 email request to FINRA for any documentation pertaining to the final disposition relating to Occurrence Number 1156518 together with FINRA's July 8, 2021 response indicating, among other things, that FINRA does not retain records for more than seven years.

On July 26, 2021, the Arbitrator issued a subpoena directed to Prudential Financial, Inc. for, among other things, a copy of the settlement agreement related to Occurrence Number 1156518. Prudential Financial, Inc. filed a response to the subpoena representing that it undertook a search for any and all records for Claimant and the Customers but did not locate any information on its computer system. Prudential Financial, Inc. explained that this lack of records is either because neither Claimant nor the Customers have a current relationship with Prudential Financial, Inc. or because such records have surpassed Prudential Financial, Inc.'s records retention periods.

The Arbitrator deemed Claimant's efforts to obtain a copy of the settlement agreement as sufficient to proceed even though the Arbitrator was unable to review it. Notwithstanding same, the Arbitrator considered the amount of payment made to any party to the settlement, which was a fraction of the total amount requested, and further 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.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony and BrokerCheck® Report.

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 1156518 from registration records maintained by the CRD for Claimant Debra Ann Bushman (CRD Number 870056) with the understanding that, pursuant to Notice to Members 04-16, Claimant Debra Ann Bushman 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 claim, allegation, or information is false.

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

The Customers filed their complaint, which turned into an arbitration, in August 2003, six months after Claimant left Prudential Securities, Incorporated ("Prudential"), where the incident occurred. The Customers were never direct clients of Claimant. The Customers were clients of one of the representatives that worked in the branch where Claimant was the manager and the representative reported to her. Claimant never met the Customers and only learned about the complaint when Prudential contacted her and asked her for a statement. Claimant worked with Prudential's lawyers and testified at the underlying arbitration hearing. From this process, Claimant learned that the Customers had included in the complaint everybody who theoretically could have had anything to do with the account, namely the account representative, the current and former branch managers, the operations manager, etc. Claimant learned that the accusation that the Customer's account statements were not reaching them because they were not properly addressed involved omitting the Post Office Box number in the version of the address that was on file in the operations area and which was used to mail out statements. However, an examination of the Customers' address that

was on record at the branch did include the Post Office Box number. At any rate, Claimant had nothing to do with the recording or transmitting of the Customers' address to the operations area.

The Arbitration ended in settlement containing an agreement to enter a stipulated award recommending expungement of the incident from Claimant's CRD records. Prudential paid the Customers a fraction of the amount sought, with no contribution made by Claimant. In responding to Claimant's requests for copies of the settlement agreement, Prudential Financial, Inc., Respondent and FINRA each advised Claimant that they were unable to find any documentation because the amount of time that passed since this dispute is longer than the records retention period.

Claimant had assumed that because the expungement was agreed upon in the stipulated settlement agreement that it would automatically be granted. She didn't realize that she would still have to file a request, which is why so much time elapsed until she initiated this claim.

Claimant started her career in the financial services industry in 1971 at Bache, which was acquired by Prudential. She rose to the position of branch manager and was one of only two female branch managers at Prudential at the time. She left Prudential in January 2003 and joined Respondent in February 2003, where she worked until September 2006.

The complaint filed by the Customers is both false and factually impossible because Claimant had no involvement with the Customers or the recording and transmission of their address. It serves no useful purpose in terms of investor protection to keep this old Occurrence on Claimant's CRD report.

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

Late Pre-Hearing Cancellation Fees

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

March 25, 2021, cancellation requested by Claimant	= \$ 100.00
May 18, 2021, cancellation requested by Claimant	= \$ 100.00

Total Late Pre-Hearing Cancellation Fees	= \$ 200.00
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The Panel has assessed the total \$200.00 in late pre-hearing cancellation fees to Claimant.

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 24, 2020	1 session
February 3, 2021	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing: September 9, 2021	1 session

Total Hearing Session Fees	= \$ 150.00
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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

Karen Isabel Bedrosian - Richardson - 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

Karen Isabel Bedrosian - Richardson

Karen Isabel Bedrosian - Richardson
Sole Public Arbitrator

09/14/2021

Signature Date

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September 14, 2021

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