

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Sarah J. Hussey

Case Number: 20-02531

vs.

Respondent
LPL Financial LLC

Hearing Site: Helena, Montana

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 Sarah J. Hussey (“Claimant”): N. Nancy Ghabai, Esq., Ghabai Law Group LLC, Boston, Massachusetts.

For Respondent LPL Financial LLC (“Respondent”): Eleonora Yonge, Esq., LPL Financial LLC, San Diego, California.

CASE INFORMATION

Statement of Claim filed on or about: August 7, 2020.
Claimant signed the Submission Agreement: August 6, 2020.

Statement of Answer filed on or about: September 28, 2020.
Respondent 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 did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1538206, an award of 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 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.

On December 22, 2021, Claimant advised that the counsel for the customers in Occurrence Number 1538206 ("Customers") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On February 5, 2021, Claimant filed the USPS tracking information available online for the notice.

The Arbitrator conducted a recorded, telephonic hearing on February 11, 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.

The Customers 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 also reviewed the settlement documentation related to Occurrence Number 1538206, 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 did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Statement of Claim, Statement of Answer, Claimant's testimony, Claimant's Prehearing Brief, and Claimant's Exhibits 1-7.

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 1538206 from registration records maintained by the CRD for Claimant Sarah J. Hussey (CRD Number 4350095) with the understanding that, pursuant to Notice to Members 04-16, Claimant Sarah J. Hussey 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; and

The claim, allegation, or information is false.

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

Following the stock market crash and fall-out from the global financial crisis of 2008, major market indices experienced substantial and unprecedented declines. The Customers, who had been clients of Claimant since 2001, disappointed with their market losses, filed an arbitration claim against Respondent.

In February of 2009, as the stock market declined to its lowest levels in more than a decade, the Customers decided to liquidate a portion of their equity holdings, against the advice of Claimant. Subsequently, in May 2009, again against the advice of Claimant, the Customers liquidated their remaining equity positions. By exiting the market in early 2009, the Customers locked in their investment losses (from the market peak) and missed the opportunity to participate in the market rebound which occurred in late 2009.

The allegations that Claimant attempted to time the market or recommended an unsuitable investment strategy is clearly erroneous. The Customers repeatedly failed to heed Claimant’s investment advice and recommendations. They did not suffer investment declines because of Claimant’s advice; they incurred losses because they failed to follow Claimant’s advice.

The allegation that Claimant caused losses in the Customers’ accounts is clearly erroneous and false. Claimant provided suitable and appropriate investment recommendations, which were consistent with the Customers’ stated growth investment objectives. Any loss in the value of the Customers’ accounts is attributable to the market declines following the recession and market collapse of 2008.

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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge Fee	=\$	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 30, 2020 1 session		
One (1) hearing session on expungement request @ \$50.00/session	=\$	50.00
Hearing: February 11, 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

Laurel Littman Gothelf

-

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

Laurel Littman Gothelf

Laurel Littman Gothelf
Sole Public Arbitrator

02/15/2021

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.

February 15, 2021

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