

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Matthew Gaglio

Case Number: 20-02540

vs.

Respondent  
Park Avenue Securities LLC

Hearing Site: New York, New York

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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

This case was administered under the Special Proceeding option for simplified cases.

**REPRESENTATION OF PARTIES**

For Claimant Matthew Gaglio: Zachary Hayes-Macaluso, J.D., FA Expungement, LLC, Denver, Colorado.

For Respondent Park Avenue Securities LLC: Sherry Shore, Esq., Park Avenue Securities LLC, Holmdel, New Jersey.

**CASE INFORMATION**

Statement of Claim filed on or about: August 7, 2020.

Matthew Gaglio signed the Submission Agreement: August 7, 2020.

Statement of Answer filed by Respondent on or about: September 9, 2020.

Park Avenue Securities LLC signed the Submission Agreement: September 10, 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 Numbers 1642887 and 1882827; and compensatory damages in the amount of \$1.00 from Respondent.

In the Statement of Answer, Respondent objected to Claimant's request for any relief, including monetary relief, from Respondent.

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 March 24, 2021, Claimant advised that the customers in Occurrence Numbers 1642887 and 1882827 were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on April 15, 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 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 noted that the dispute related to Occurrence Number 1642887 was not settled and, therefore, there was no settlement document to review.

The Arbitrator reviewed the settlement documentation related to Occurrence Number 1882827, 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: 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 1642887 from registration records maintained by the CRD for Claimant Matthew Gaglio (CRD Number 3091938) with the understanding that, pursuant to Notice to Members 04-16, Claimant Matthew Gaglio 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:

The customer was moving one of his accounts to a different firm. As part of the instructions that the customer gave to the new firm, the two securities in the customer’s account were sold on February 8, 2012 and the money was used to buy mutual funds. In December 2012, after one of the sold stocks went up in value, the customer sent an e-mail complaint stating that the stocks should not have been sold. Respondent denied the claim because the customer signed a written authorization to sell the stocks and to use the proceed to buy mutual funds. The customer never did anything to pursue the claim and still maintains an account with Claimant.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1882827 from registration records maintained by the CRD for Claimant Matthew Gaglio (CRD Number 3091938) with the understanding that, pursuant to Notice to Members 04-16, Claimant Matthew Gaglio 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 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:

The complaint, which was made two years after the insurance policy was issued, was that the life insurance policy with defined benefits was not suitable for the customer. The original policy offered was based upon the customer being given a standard insurance

rating. The customer wanted a policy that gave her a preferred rating, so Claimant was able to get a different policy that offered the preferred rating. Both policies were whole life insurance policies with defined retirement benefits. The customer did not pay the full required premiums after the first year, which put the policy out of balance. The complaint was that the customer wanted the first policy and Claimant sold her the second policy. The firm resolved this case by converting the second policy to the first policy and paying the amount that would have been in it if it was the one originally issued. Claimant was not required to pay any of the settlement sum.

### **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 firm that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge	= \$	150.00
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#### **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 23, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: April 15, 2021	1 session	

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Total Hearing Session Fees	= \$	100.00
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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**

Michael H. DuBoff

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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**

***Michael H DuBoff***

Michael H. DuBoff  
Sole Public Arbitrator

**04/23/2021**

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.

April 23, 2021

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