

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

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In the Matter of the Arbitration Between:

Claimant

Justin Andrew Montandon

Case Number: 20-02567

vs.

Respondent

Ameriprise Financial Services, LLC

Hearing Site: Houston, Texas

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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

**REPRESENTATION OF PARTIES**

For Claimant Justin Andrew Montandon (“Claimant”): Benjamin Winograd, Esq., Jake Jacobsen, Esq., and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Ameriprise Financial Services, LLC (“Respondent”): Howard M. Klausemeier, Esq., Ameriprise Financial, Troy, Michigan.

**CASE INFORMATION**

Statement of Claim filed on or about: August 11, 2020.

Claimant signed the Submission Agreement: August 11, 2020.

Statement of Answer filed on or about: September 30, 2020.

Respondent signed the Submission Agreement: September 30, 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 supported Claimant’s expungement request.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1440183, 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 requested an award recommending expungement and denying any and all relief requested against Respondent.

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.

On April 7, 2021, Claimant advised that the customer in Occurrence Number 1440183 (“Customer”) was served with the Statement of Claim and notice of the date and time of the expungement hearing (“Notice”). On April 12, 2021, Claimant filed an Affidavit confirming that the Customer was served with the Notice. Claimant also filed a copy of the FedEx tracking information available online for the Notice.

The Arbitrator conducted a recorded, telephonic hearing on May 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, supported the request for expungement.

The Customer 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.

Claimant submitted correspondence stating that he did not have a copy of the settlement agreement in Occurrence Number 1440183 and Respondent was unable to locate any related documentation. Based upon the Statement of Claim and Claimant’s testimony, the Arbitrator noted 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, and Claimant’s 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 1440183 from registration records maintained by the CRD for Claimant Justin Andrew Montandon (CRD Number 4455879) with the understanding that, pursuant to Notice to Members 04-16, Claimant Justin Andrew Montandon 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 finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

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

The Customer, a licensed insurance producer, became a client of Claimant’s through a referral group in or about 2005. The Customer had received an inheritance. The Customer received a substantial initial tranche of funds and expected a substantial second tranche of funds in two years.

The Customer’s stated investment objective was to finance her retirement, in about five years. She had no immediate liquidity needs, and Claimant assessed the Customer’s risk tolerance as moderate. However, in the course of discussions between Claimant and the Customer, the Customer admitted that her online gambling was causing her to withdraw large sums from her account. Claimant engaged a computer programmer who fitted Customer’s computer system with a site block to attempt to prevent access to the gambling sites. The Customer continued to make withdrawals, however.

When the Customer received her second tranche of funds, Claimant and the Customer discussed various insurance options to provide a legacy for her children, including a variable universal life (VUL) policy with a guaranteed death benefit. The Customer understood the VUL, signed the necessary authorizations, and attested to its suitability for her needs. The Customer authorized the VUL purchase and the necessary account transfer to fund the purchase.

Claimant had no further contact with the Customer about her investments or the VUL until the Customer filed suit. The suit was ultimately settled with no input or financial contribution from Claimant.

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
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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(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

**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: December 18, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00  
Hearing: May 11, 2021 1 session

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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**

Daniel J. Pagnano

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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**

***Daniel J. Pagnano***

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Daniel J. Pagnano  
Sole Public Arbitrator

**05/19/2021**

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Signature Date

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May 19, 2021

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