

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
David Lynn Van Geffen

Case Number: 20-02571

vs.

Respondent
Raymond James Financial Services, Inc.

Hearing Site: New Orleans, Louisiana

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

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant David Lynn Van Geffen: Benjamin Winograd, Jered K. Harris, and Dochter Kennedy, MBA, J.D., AdvisorLaw, LLC, Westminster, Co.

For Respondent Raymond James Financial Services, Inc.: Bruce W. Barnes, Esq., Bruce W. Barnes, PA, Safety Harbor, Florida.

CASE INFORMATION

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

David Lynn Van Geffen signed the Submission Agreement: August 11, 2020.

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

Raymond James Financial Services, Inc. signed the Submission Agreement: August 26, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of information from registration records maintained by the Central Registration Depository (“CRD”).

In the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested an award granting expungement of the Form U5 amendments accompanying Occurrence Numbers 2067134 and 2067136, and those relevant portions of the Form U4, from Claimant's CRD record on the basis that the statement is defamatory in nature, misleading, inaccurate, and/or erroneous, to include: (1) amendment of the Reason for Termination entry in Section 3 of Claimant's Form U5 to read "Voluntary;" (2) expungement of the Reason for Termination explanation on Claimant's CRD; and (3) amendment of the answers to questions 7F(1) and 7F(2) of Claimant's Form U5, from a "Yes" response to "No;" and (4) deletion of the Termination Disclosure Reporting Pages regarding Occurrence numbers 2067134 and 2067136, in their entirety. In the absence of a finding of expungement of both occurrence numbers 2067134 and 2067136, Claimant requests that one of the two identical termination disclosures on Claimant's BrokerCheck® record be rescinded or amended, as the two entries refer to the same, single termination event. Finally, Claimant requested 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 requested: denial of the Statement of Claim; sanctions based on the filing of a frivolous arbitration complaint; attorneys' fees; and costs.

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 or about April 16, the parties entered into a written stipulation and filed it in the record of this proceeding prior to the hearing. The parties stipulated to the accuracy of the information contained in the U-5 Respondent completed at the time of Claimant's termination and Respondent's compliance with its duty to report the reason for Claimant's termination on the Form U5. In the stipulation, Claimant withdrew his claim for defamation or any other relief against Respondent. Therefore, the sole remaining issue for the Arbitrator to consider was Claimant's request for expungement.

On or about April 16, 2021, Respondent's counsel filed notice with FINRA Dispute Resolution stating that Respondent would not be participating in the final expungement hearing, but reiterated its opposition to the expungement request.

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. Claimant's request for expungement of Occurrence Number 2067134 is denied.
2. The Arbitrator recommends the expungement of all references to Occurrence Number 2067136 from the registration records maintained by the CRD for Claimant David Lynn Van

Geffen (CRD Number 1890754). Any “Yes” answers should be changed to “No” as applicable.

3. The Reason for Termination and Termination Explanation in Section 3 of Claimant’s Forms U5 filed by Raymond James Financial Services, Inc. and Raymond James Financial Services Advisors, Inc. on March 24, 2020, and maintained by the CRD shall remain the same.
4. The above recommendation is made with the understanding that the registration records are not automatically amended. Claimant must obtain confirmation of this Award from a court of competent jurisdiction, before the CRD will execute the expungement directive, and must forward a copy of the Court Order to FINRA’s Credentialing, Registration, Education and Disclosure Department for the amendments to be incorporated into the Registration Records.

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

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: December 3, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: April 20, 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

Allan R. Lazor

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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

Allan R. Lazor

Allan R. Lazor
Sole Public Arbitrator

04/29/2021

Signature Date

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April 29, 2021

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