

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Thomas Casey Loper

Case Number: 20-02585

vs.

Respondent
Edward Jones

Hearing Site: Oklahoma City, Oklahoma

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 Thomas Casey Loper (“Claimant”): Chelsea Masters, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Edward Jones aka Edward D. Jones & Co., L.P. (“Respondent”): Jonathan W. Hackbarth, Esq., Quarles & Brady LLP, Milwaukee, Wisconsin.

CASE INFORMATION

Statement of Claim filed on or about: August 12, 2020.
Claimant signed the Submission Agreement: August 11, 2020.

Statement of Answer filed on or about: October 1, 2020.
Respondent signed the Submission Agreement: September 24, 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 1999964, 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 did not request any relief.

At the hearing, Claimant withdrew the request for \$1.00 in compensatory damages and, additionally, requested expungement of Occurrence Number 1978343.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On February 1, 2021, Claimant advised that the customer in Occurrence Number 1999964, the same as the customer in Occurrence Number 1978343, (“Customer”) was served with the Statement of Claim and notice of the date and time of the expungement hearing (“Notice”). On February 9, 2021, Claimant filed an Affidavit confirming 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 March 23, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent did not participate in the expungement hearing.

The Customer also 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 1999964, 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 copy of the settlement that was filed was not signed, the settlement was not conditioned on any party to the settlement not opposing the expungement request, and that Claimant contributed to the settlement amount.

The Arbitrator noted that the dispute related to Occurrence Number 1978343 was not settled and, therefore, there was no settlement documentation to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant’s testimony and Claimant’s Exhibits 1-9.

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 Numbers 1999964 and 1978343 from registration records maintained by the CRD for Claimant Thomas Casey Loper (CRD Number 5199516) with the understanding that, pursuant to Notice to Members 04-16, Claimant Thomas Casey Loper 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 registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and

The claim, allegation, or information is false.

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

The Customer’s investment objective was to have modest portfolio volatility and risk of loss. The Customer’s annual income consisted primarily of Social Security benefits. Despite a small annual income, the Customer had a high net worth. Claimant testified that he recommended portfolio modifications that would reduce risk. Due to the portfolio’s value, Claimant advised the Customer to purchase less risky investments through an LOI. Claimant did not violate any sales practices. Claimant testified that he discussed and fully informed the Customer on pricing break points and concepts of the LOI, providing illustrations and literature to the Customer. Claimant testified that he also informed the Customer that a tax liability would be generated if the strategy of selling high risk securities and purchasing low risk securities was executed. Claimant was prohibited from providing tax recommendations. However, the Customer could have consulted with his tax professional prior to the initial transaction. Based upon the Customer’s direction, a large initial security purchase was executed in June 2017. The transaction involved selling a portion of the current portfolio and purchasing a less risky asset. As expected, the sale resulted in a capital gain to the Customer. The Customer informed Claimant that he wanted to consult a tax professional prior to making additional security purchases. Claimant testified that he met with the Customer later in 2017 to determine the status of subsequent purchases. Ultimately, the requirements of the LOI were not fulfilled and the Customer’s account was charged by Respondent for previous discounts. Claimant fulfilled his duty when he introduced the LOI concept to the Customer.

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 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
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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 @ \$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: March 23, 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

David A. Schuler - 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

David A. Schuler

David A. Schuler
Sole Public Arbitrator

04/08/2021

Signature Date

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April 08, 2021

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