

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jeffery Still

Case Number: 20-02595

vs.

Respondent
NYLife Securities LLC

Hearing Site: Hartford, Connecticut

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 Jeffery Still: Brian J. Palmeri, Esq., Winget Spadafora & Schwartzberg, LLP, Stamford, Connecticut.

For Respondent NYLife Securities LLC: Richard F. Lubarsky, Esq., Lubarsky Law Firm, PLLC, White Plains, New York.

CASE INFORMATION

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

Statement of Answer filed by Respondent on or about: September 29, 2020.
NYLife Securities LLC signed the Submission Agreement: September 25, 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 took no position regarding the merits of Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 2072530 and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent requested that all forum and arbitrators' fees be assessed against Claimant.

At the close of 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 8, 2020, Claimant provided an email from the counsel of the customer in Occurrence Number 2072530 ("Customer") which confirmed that the Customer was served with a copy of the Statement of Claim, as well as notice of the date and time of the expungement hearing and of his right to participate therein.

On January 19, 2021, the parties filed a Joint Motion Requesting Video Capabilities for the purposes of sharing documents only, to which the Chairperson ordered the expungement hearing, scheduled for January 20, 2021, be held via Zoom videoconference.

The Arbitrator conducted a recorded hearing by videoconference, on January 20, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and did not oppose 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.

The Arbitrator also reviewed the settlement documents, considered the amount of payments 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: Claimant's testimony and Claimant's Exhibits A-O.

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 2072530 from registration records maintained by the CRD for Claimant Jeffrey Still (CRD Number 6040892) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jeffrey Still 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 false.

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

In February 2020, the Customer filed an arbitration claim against Respondent, principally alleging that a financial plan prepared by Claimant for the Customer was “rife with unsuitable, high commission products.” Claimant seeks expungement under FINRA Rule 2080(b)(1)(C) of the Customer’s complaint noted on his publicly available BrokerCheck® report.

A Zoom video conference hearing was held on January 20, 2021, at which Claimant testified at length regarding his relationship and interactions with the Customer, reviewing and discussing each of Claimant’s Exhibits A-O (constituting more than 250 pages). Also, notice of the date and time of the expungement hearing, and of his right to participate, had been provided to the Customer, but he did not appear.

I conclude that the evidence presented establishes that: (1) Claimant prepared an extensive and comprehensive financial plan, requiring the expenditure of many hours by Claimant and in which the Customer meaningfully participated; (2) the financial plan was comprehensive and included products that were appropriate and suitable given the Customer’s financial status and knowledge; and (3) the products recommended performed in a positive manner during Claimant’s relationship with the Customer. Review of the settlement agreement between the Customer and Respondent supports a finding that the settlement amount was nominal in relation to the initial claims made by the Customer.

Based upon the foregoing, I conclude that Claimant’s requested expungement relief is appropriate on the ground that “the claim, allegation or information is false”. Rule 2080(b)(1)(C).

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: November 24, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing Date: January 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

Robert Titus

-

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

Robert Titus

Robert Titus
Sole Public Arbitrator

01/26/2021

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.

January 26, 2021

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