

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

James Charles Aughenbaugh, II

Case Number: 20-02629

vs.

Respondent

Raymond James & Associates, Inc.

Hearing Site: Dallas, Texas

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 James Charles Aughenbaugh, II (“Claimant”): Brian Luther, Esq., FA
Expungement, LLC, Denver, Colorado.

For Respondent Raymond James & Associates, Inc. (“Respondent”): Robert M. Rudnicki, Esq.,
Raymond James & Associates, Inc., St. Petersburg, Florida.

CASE INFORMATION

Statement of Claim filed on or about: August 17, 2020.

Claimant signed the Submission Agreement: August 17, 2020.

Statement of Answer filed on or about: August 26, 2020.

Respondent signed the Submission Agreement: August 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 1574387

and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent requested that all fees be assessed to Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

On February 16, 2021, Claimant advised that the customer in Occurrence Number 1574387 (“Customer”) was served with the Statement of Claim and notice of the date and time of the expungement hearing (“Notice”). On February 25, 2021, Claimant filed a copy of the USPS tracking information available online for the Notice.

The Arbitrator conducted a recorded, telephonic hearing on March 9, 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.

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 noted that there was no settlement document to review, as Respondent chose to repurchase the customer’s investment in auction rate securities (“ARS”) as part of a global action. The Arbitrator also noted that Claimant did not contribute to the repurchase, nor did he participate in the decision to make the Customer whole.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant’s testimony, New Account Form, and IRA Application & Agreement to Participate.

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 claim for \$1.00 in compensatory damages is denied.
2. The Arbitrator recommends the expungement of all references to Occurrence Number 1574387 from registration records maintained by the CRD for Claimant James Charles Aughenbaugh, II (CRD Number 2408807) with the understanding that, pursuant to Notice to Members 04-16, Claimant James Charles Aughenbaugh, II 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:

The documents and testimony support the finding that Claimant fully informed the Customer when he recommended the ARS. Further, the New Account Form application and IRA Application & Agreement to Participate form showed the Customer’s ratification before he purchased the ARS. The documents specified the nature of the ARS and disclosed the risks involved.

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 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

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 22, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: March 9, 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

William A. Fynes, III

- 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

William A. Fynes, III

William A. Fynes, III
Sole Public Arbitrator

03/25/2021

Signature Date

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March 25, 2021

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