

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Todd Jason Trusso

Case Number: 20-02695

vs.

Respondent
Pruco Securities, LLC.

Hearing Site: San Diego, California

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 Todd Jason Trusso (“Claimant”): Harris Freedman, Esq., HLBS Law, Westminster, Colorado.

For Respondent Pruco Securities, LLC. (“Respondent”): Jennifer E. Novoselsky, Esq., Reyes Kurson, Ltd., Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: August 19, 2020.
Claimant signed the Submission Agreement: August 19, 2020.

Statement of Answer filed by Respondent on or about: October 12, 2020.
Respondent signed the Submission Agreement: August 28, 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 on Claimant’s expungement request and denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1199823 from Claimant’s CRD records pursuant to

FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous;

2. Expungement of Occurrence Number 1199823 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
3. Deletion of all Disclosure Reporting Pages accompanying Occurrence Number 1199823;
4. Compensatory damages in the amount of \$1.00 from Respondent; and
5. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. Claimant's request for damages be denied; and
2. All forum fees for hearing sessions be assessed against Claimant pursuant to FINRA Rule 13805(d).

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 February 12, 2021, Claimant submitted the death record from the Lexis Nexis database and the obituary of the customer in Occurrence Number 1199823 ("Customer"). On February 22, 2021, Claimant filed an Affidavit confirming that the Customer is deceased and was therefore unable to be served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on April 28, 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, did not oppose the request for expungement.

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 the dispute related to Occurrence Number 1199823 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the Statement of Claim; the Statement of Answer; Claimant's exhibits; and Claimant's testimony.

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 1199823 from registration records maintained by the CRD for Claimant Todd Jason Trusso (CRD Number 3057025) with the understanding that, pursuant to Notice to Members 04-16, Claimant Todd Jason Trusso 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 claim, allegation, or information is false.

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

The Customer purchased a variable annuity. In response to information provided by the Customer, Respondent and Claimant recommended a conservative allocation of the funds in the variable annuity. In particular, Respondent and Claimant recommended that little, if any, of the funds be allocated to the MFS Emerging Growth Series (“MFS”), which was a high-risk option. Despite this recommendation, the Customer insisted on allocating 20% of his variable annuity funds to MFS.

Before electing to invest in MFS, the Customer filled out and signed a customer information form (“CIS”). The CIS shows that the Customer’s answer to the question “[w]ere the selections based on an Investment Allocation pursuant to a company approved Asset Allocation Model?” was “[n]o.” The CIS also shows that the Customer identified his risk tolerance as “aggressive” and his investment objective as “growth,” which were consistent with the Customer’s decision to allocate a portion of his investment in MFS.

Nevertheless, when the value of the funds invested in MFS declined appreciably, the Customer complained alleging that he had been taken advantage of because of his age and that he had told Claimant he wanted something safe. Based on the evidence, these allegations are clearly erroneous and patently false. Occurrence Number 1199823 should be expunged.

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

**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

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

March 24, 2021, postponement requested by Claimant Waived

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 21, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: April 28, 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

Mark R. Lee

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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

Mark R. Lee

Mark R. Lee
Sole Public Arbitrator

05/13/2021

Signature Date

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May 14, 2021

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