

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Pamela Jackson Middleton

Case Number: 20-02705

vs.

Respondent  
MSI Financial Services, Inc.

Hearing Site: Atlanta, Georgia

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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 Pamela Jackson Middleton (“Claimant”): Michael O’Gara, Esq. and Docthor Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent MSI Financial Services, Inc. (“Respondent”): Martin Harris, Esq., Harris & Affiliates, Ltd., Chicago, Illinois.

**CASE INFORMATION**

Statement of Claim filed on or about: August 20, 2020.  
Claimant signed the Submission Agreement: August 20, 2020.

Statement of Answer filed on or about: October 27, 2020.  
Respondent signed the Submission Agreement: December 21, 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.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1599924, 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 requested that Claimant's request for \$1.00 in compensatory damages be denied and that forum fees and/or session fees be assessed against Claimant.

At the hearing, Claimant withdrew the request for \$1.00 in compensatory damages.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On April 27, 2021, Claimant advised that the wife of the customer in Occurrence Number 1599924 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). Claimant also filed a copy of an Obituary and a Death Record for the Customer. On May 3, 2021, Claimant filed an Affidavit confirming that the Customer's wife 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 June 2, 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, took no position on the request for expungement.

Neither the Customer nor the Customer's wife participated in the expungement hearing. The Arbitrator found that the Customer's wife 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 noted that the dispute related to Occurrence Number 1599924 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: Statement of Claim, Statement of Answer, Claimant's testimony, and Claimant's BrokerCheck® Report.

### **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 1599924 from registration records maintained by the CRD for Claimant Pamela Jackson Middleton (CRD Number 1145902) with the understanding that, pursuant to Notice to Members 04-16, Claimant Pamela Jackson Middleton 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; and

The claim, allegation, or information is false.

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

Claimant met with the Customer numerous times to discuss his investment intents and needs. Claimant recommended the variable universal life (“VUL”) policy because it (i) suited the Customer’s needs, (ii) contained a number of investment options, and (iii) contained a number of interest rates. Claimant explained the VUL verbally; Claimant presented the Customer with written illustrations of how the VUL worked, which the Customer signed; Claimant presented the Customer with the VUL contract to sign and, after it was signed, provided the Customer with a copy of the signed contract; the Customer had a 10-day “free look” period in which he could void the transaction, but did not; the Customer reviewed, completed, and signed all necessary authorization forms; Claimant visited with the Customer several times over the next several years, during which time the Customer made no complaint about his VUL; and, finally, it was not until twenty-four years later, when a different financial advisor attempted to sell the Customer a new policy, that the Customer filed the complaint.

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 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
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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 21, 2020	1 session		
One (1) hearing session on expungement request @ \$50.00/session		= \$	50.00
Hearing: June 2, 2021	1 session		
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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**

Harvey R. Linder

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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**

***Harvey R. Linder***

Harvey R. Linder  
Sole Public Arbitrator

**06/07/2021**

Signature Date

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June 07, 2021

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