

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Stephen Edson Bush

Case Number: 20-02709

vs.

Respondent
LPL Financial, LLC

Hearing Site: Charlotte, North Carolina

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 Stephen Edson Bush (“Claimant”): Frances Menzer and Dochter Kennedy, MBA, J.D., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent LPL Financial, LLC (“Respondent”): Eleonora Yonge, Esq., LPL Financial, LLC, San Diego, California.

CASE INFORMATION

Statement of Claim filed on or about: August 20, 2020.

Stephen Edson Bush signed the Submission Agreement: August 20, 2020.

Amended Statement of Claim filed on or about: August 31, 2020.

Statement of Answer filed by Respondent on or about: October 8, 2020.

LPL Financial, LLC signed the Submission Agreement: October 9, 2020.

CASE SUMMARY

In the Statement of Claim and Amended 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 stated it did not presently oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 2032632; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deems just and equitable.

In the Amended Statement of Claim, Claimant reaffirmed and elaborated on his prior relief requests, and also requested the deletion of all Disclosure Reporting Pages accompanying the underlying claim.

In the Statement of Answer, Respondent opposed Claimant's request for monetary damages against Respondent, as well as the request for expungement being construed to allege any wrongdoing on the part of Respondent.

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 January 21, 2021, Claimant advised that the customer in Occurrence Number 2032632 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. Additionally, on January 26, 2021, Claimant filed an Affidavit confirming that the Customer was 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 March 23, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and supported 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 documentation related to Occurrence Number 2032632, 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 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, as well as all documents and exhibits submitted by the Parties.

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 2032632 from registration records maintained by the CRD for Claimant Stephen Edson Bush (CRD Number 1898917) with the understanding that, pursuant to Notice to Members 04-16, Claimant Stephen Edson Bush 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 filed an arbitration with FINRA (Case Number 19-01164) that alleged breach of contract, fraud, misrepresentation, failure to supervise, breach of fiduciary duty, and violations of FINRA rules by Respondent. The Customer requested monetary damages and settled the case with Respondent for much less than what was requested. Respondent denied any wrongdoing and disclaims any liability. Respondent believed and asserted that its actions, as well as those of Claimant, were lawful, reasonable, proper, and made in good faith. Respondent denied the truth of the Customer's allegations and asserted that Respondent did not cause any damages to the Customer. Respondent settled the dispute to avoid further expense, inconvenience, and interference with ongoing business operations. Claimant did not participate in the settlement, did not sign the settlement, and did not contribute any funds to the settlement.

The Customer was an experienced investor with over twenty years of investment experience. Claimant reviewed the Customer's investment goals, risk tolerance, and investment time frame. Claimant recommended investments that were suitable for the Customer. Claimant explained to the Customer in detail the terms, risks, costs, fees, advantages, and disadvantages of the recommended investments. The Customer completed and signed subscription and disclosure documents. The Customer also received and reviewed the offering documents and prospectus of the investments. The Customer knew what he was investing in and that the investments were suitable. The Customer made substantial withdrawals from his accounts which impacted the value of his accounts. The Customer never complained to Claimant, and later transferred his portfolio away from Respondent. At that time, Customer was no longer a client of Claimant.

At the hearing, Respondent stated its support for the expungement of this matter from Claimant's record. Claimant presented evidence and testimony that the Customer's claims were clearly erroneous and false. The Arbitrator finds that the Customer's allegations are not credible and not supported by the evidence. The Arbitrator recommends expungement of Occurrence Number 2032632 from Claimant's record on the grounds that the allegations are clearly erroneous and false, and therefore Rules 2080(b)(1)(A) and 2080(b)(1)(C) have been satisfied.

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 that employed the associated person at the time of the event 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 with a single Arbitrator @ \$50.00/session	= \$	50.00
Pre-Hearing Conference: December 10, 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
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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

Michael J. Ahlstrom

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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

Michael J. Ahlstrom

Michael J. Ahlstrom
Sole Public Arbitrator

04/01/2021

Signature Date

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April 02, 2021

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