

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant Case Number: 20-02720
Joseph Santo Marino

vs.

Respondent Hearing Site: Hartford, Connecticut
Voya Financial Advisors, Inc.

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 Joseph Santo Marino: Benjamin Winograd, Esq. and Doctor Kennedy, MBA, J.D., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Voya Financial Advisors, Inc.: Zachary Knoblock, Esq. and Benjamin J. Biard, Esq., Winget Spadafora Schwartzberg, LLP, Miami, Florida.

CASE INFORMATION

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

Joseph Santo Marino signed the Submission Agreement: August 20, 2020.

Statement of Answer filed by Respondent on or about: October 12, 2020.

Voya Financial Advisors, Inc. signed the Submission Agreement: October 13, 2020.

Amended Statement of Claim filed on or about: November 24, 2020.

Statement of Answer to Claimant's Amended Statement of Claim filed by Respondent on or about: December 14, 2020.

CASE SUMMARY

In the Statement of Claim, as amended, 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 and in the Statement of Answer to Claimant’s Amended Statement of Claim, Respondent did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested: expungement of Occurrence Number 1995192; 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 Statement of Answer and in the Statement of Answer to Claimant’s Amended Statement of Claim, Respondent requested: a statement from the Arbitrator on whether to recommend expungement of the customer complaint from Claimant’s CRD records in the form required by FINRA Rule 2080; denial of Claimant’s request for \$1.00 in compensatory damages; and an order that all forum costs and fees be assessed against Claimant.

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 November 12, 2020, Claimant filed a Motion to Amend in which he sought to amend the Statement of Claim to provide further information regarding Occurrence Number 1995192. On November 23, 2020, Respondent filed correspondence in which it advised that it had no objections to Claimant’s Motion to Amend. On November 27, 2020, the Arbitrator issued an Order in which he granted Claimant’s Motion to Amend the Statement of Claim.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement.

The Customer also participated in the expungement hearing and opposed the expungement request.

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 Joseph Santo Marino’s (CRD Number 1094341) request for expungement of Occurrence Number 1995192 from his registration records maintained by the CRD is denied.
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 Voya Financial Advisors, Inc. is assessed the following:

Member Surcharge	= \$ 150.00
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Postponement Fees

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

April 7, 2021, postponement requested by Claimant	= WAIVED
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May 25, 2021, postponement requested by Claimant	= \$ 50.00
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Total Postponement Fees	= \$ 50.00
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The Arbitrator has assessed the total postponement fees to Claimant.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

May 25, 2021, postponement requested by Claimant	= \$ 600.00
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Total Last-Minute Cancellation Fee	= \$ 600.00
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The Arbitrator has assessed the entire last-minute cancellation fee to Claimant.

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 18, 2020	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing: June 30, 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

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

07/08/2021

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.

July 08, 2021

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