

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Damian Jude Dering

Case Number: 20-02734

vs.

Respondent
Ameriprise Financial Services, LLC

Hearing Site: Los Angeles, 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 Damian Jude Dering (“Claimant”): Benjamin Winograd, Esq., HLBS Law, Westminster, Colorado.

For Respondent Ameriprise Financial Services, LLC (“Respondent”): Howard M. Klausmeier, Esq., Ameriprise Financial Services, LLC, Troy, Michigan.

CASE INFORMATION

Statement of Claim filed on or about: August 21, 2020.
Claimant signed the Submission Agreement: August 21, 2020.

Statement of Answer filed by Respondent on or about: October 15, 2020.
Respondent signed the Submission Agreement: October 14, 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:

1. Expungement of Occurrence Number 1195749 from Claimant's CRD records pursuant to FINRA Rule 2080, as:
 - a. the claim, allegation, or information is factually impossible or clearly erroneous; and/or
 - b. Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and/or
 - c. the claim, allegation, or information is false;
2. Compensatory damages in the amount of \$1.00 from Respondent; and
3. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. A recommendation for expungement of Occurrence Number 1195749 from Claimant's CRD records in accordance with FINRA Rule 2080;
2. All requested damages against Respondent be denied; and
3. All costs and fees related this arbitration matter, including but not limited to member surcharges and hearing 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 May 11, 2021, Claimant advised that the customer in Occurrence Number 1195749 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. On May 17, 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 June 11, 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 Customer did not participate in the expungement. 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 was unable to review the settlement documentation related to Occurrence Number 1195749. The Arbitrator noted that, upon diligent search, the settlement documents could not be produced due to the length of time since the settlement occurred. Having reviewed Claimant's BrokerCheck® Report and heard testimony at the hearing concerning Occurrence

Number 1195749, the Arbitrator considered the amount of payment made in the settlement and noted that Claimant did not contribute to the settlement amount. The Arbitrator also noted that the date of the settlement preceded the effective date of the rule against conditioned settlements.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: 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 1195749 from registration records maintained by the CRD for Claimant Damian Jude Dering (CRD Number 2854253) with the understanding that, pursuant to Notice to Members 04-16, Claimant Damian Jude Dering 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:

Claimant fully explained the terms of the variable insurance policy ("Policy") and the Customer signed documents acknowledging that he understood the Policy. The Policy was suitable and fulfilled the needs of the Customer by providing an estate funded by his retirement pension. The Customer filed the claim six years after the purchase of the Policy and made regular premium payments during that period. The settlement was made by Respondent as part of a class action suit. Claimant was not aware of the claim or settlement, was not a party to the claim, and did not contribute to the settlement.

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

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 22, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: June 11, 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

Benjamin F. Breslauer

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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

Benjamin F. Breslauer

Benjamin F. Breslauer
Sole Public Arbitrator

07/01/2021

Signature Date

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July 01, 2021

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