

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Daniel James Baumgartel

Case Number: 20-02759

vs.

Respondent

Edward Jones

Hearing Site: Seattle, Washington

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 Daniel James Baumgartel (“Claimant”): Frances Menzer, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Edward Jones (“Respondent”): Connor M. Trafton, Esq., Keesal, Young & Logan, Long Beach, California.

CASE INFORMATION

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

Claimant signed the Submission Agreement: August 24, 2020.

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

Respondent signed the Submission Agreement: September 29, 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 1473904 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 denial of any other request for relief except for the expungement request, including but not limited to the \$1.00 in damages sought by 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 January 5, 2021, Claimant filed the death record of the customer in Occurrence Number 1473904 ("Customer") from the Lexis Nexis database. On January 12, 2021, Claimant filed an Affidavit 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 23, 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 occurrences in the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 1473904 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; and Claimant's exhibits.

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 1473904 from registration records maintained by the CRD for Claimant Daniel James Baumgartel (CRD Number 4426386) with the understanding that, pursuant to Notice to

Members 04-16, Claimant Daniel James Baumgartel 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:

According to Claimant’s testimony, his standard operating procedure would have been to inform all customers of the impact of cashing-in an annuity contract. Furthermore, the Customer’s annuity was not cashed-in while it was registered as an account of Respondent or under Claimant’s purview. Rather, the transaction was consummated by the Customer’s credit union to which the annuity had been transferred. Respondent does not dispute or contest the above statements.

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 with a single Arbitrator @ \$50.00/session	= \$	50.00
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Pre-Hearing Conference:	December 21, 2020	1 session		
One (1) hearing session on expungement request @ \$50.00/session			= \$	50.00
Hearing:	April 23, 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

Francis Vincent Dane

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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

Francis Vincent Dane

Francis Vincent Dane
Sole Public Arbitrator

05/05/2021

Signature Date

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May 05, 2021

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