

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Kenneth John Arellano

Case Number: 20-02772

vs.

Respondent
LPL Financial LLC

Hearing Site: Syracuse, New York

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 Kenneth John Arellano: Dochter Kennedy, MBA, J.D., and Frances Menzer, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent LPL Financial LLC: Tracey Salmon-Smith, Esq., Faegre Drinker Biddle & Reath LLP, Florham Park, New Jersey.

CASE INFORMATION

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

Kenneth John Arellano signed the Submission Agreement: August 24, 2020.

Statement of Answer filed by Respondent on or about: December 7, 2020.

LPL Financial LLC signed the Submission Agreement: December 7, 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 denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 2070480; 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, Respondent requested an award dismissing any and all allegations of wrongdoing against Respondent; deny any and all demands and requests for damages, costs, and/or fees against Respondent; assess all arbitration costs and expenses against Claimant; and such other relief as the Arbitrator may deem appropriate.

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.

During the hearing scheduled for August 3, 2021, the Claimant did not appear. Respondent moved to dismiss the claim due to Claimant's failure to appear and prior continuances, and also for reimbursement of its costs and fees. Claimant's counsel objected to Respondent's Motion. By Order dated August 5, 2021, the Arbitrator denied Respondent's Motion without prejudice to Respondent raising the motion again, either prior to or at the next hearing.

By correspondence dated August 5, 2021, Respondent renewed its Motion to Dismiss Claimant's Statement of Claim in its entirety and assess all costs against Claimant. By correspondence dated August 11, 2021, Claimant objected to Respondent's Motion. By Order dated August 14, 2021, the Arbitrator denied Respondent's Motion to Dismiss.

On August 30, 2021, Claimant advised that the customers in Occurrence Number 2070480 ("customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded hearing by videoconference on September 3, 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, opposed the request for expungement.

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

On September 22, 2021, Claimant and Respondent submitted Closing Statements.

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's request for expungement of Occurrence Number 2070480 from 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

**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 events giving rise to the dispute. Accordingly, as a party, Respondent LPL Financial LLC is assessed the following:

Member Surcharge = \$ 150.00

Postponement Fees

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

April 21, 2021, postponement requested by the parties = \$ 50.00
July 7, 2021, postponement requested by Claimant = \$ Waived
August 3, 2021, postponement requested by Claimant = \$ 50.00

Total Postponement Fees = \$ 100.00

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:

August 3, 2021, cancellation requested by Claimant = \$ 600.00

Total Last-Minute Cancellation Fees = \$ 600.00

The Arbitrator has assessed the total last-minute cancellation fees 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:

Two (2) pre-hearing sessions with a single Arbitrator @ \$50.00/session	= \$	100.00
Pre-Hearing Conferences: December 18, 2020	1 session	
August 3, 2021	1 session	
Two (2) hearing sessions on expungement request @ \$50.00/session	= \$	100.00
Hearings: September 3, 2021	2 sessions	
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Total Hearing Session Fees	= \$	200.00

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

Robert J. Ambrogi

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Arbitrator's Signature

Robert J. Ambrogi

Robert J. Ambrogi
Sole Public Arbitrator

10/01/2021

Signature Date

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October 01, 2021

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