

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Jeffrey Roger Segelke

Case Number: 20-02782

vs.

Respondent  
Honor, Townsend & Kent, LLC

Hearing Site: Salt Lake City, Utah

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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 Jeffrey Roger Segelke (“Claimant”): Dochter Kennedy, MBA, J.D. and Michael O’Gara, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Honor, Townsend & Kent, LLC (“Respondent”): George D. Fagan, Esq. and Reagan R. Wilty, Esq., Leake & Andersson LLP, New Orleans, Louisiana.

**CASE INFORMATION**

Statement of Claim filed on or about: August 25, 2020.

Claimant signed the Submission Agreement: August 25, 2020.

Statement of Answer filed by Respondent on or about: October 30, 2020.

Amended Statement of Answer filed by Respondent on or about: February 26, 2021.

Respondent signed the Submission Agreement: October 13, 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”).

Unless specifically admitted in the Statement of Answer and Amended Statement of Answer, Respondent opposed Claimant’s expungement request, denied the allegations made in the Statement of Claim, and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1374908 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 and Amended Statement of Answer, Respondent requested:

1. Claimant's request for expungement pursuant to FINRA Rules 2080(b)(1)(A) and 2080(b)(1)(C) be denied;
2. Respondent be dismissed from the proceeding, with prejudice; and
3. Such other and further relief as the Arbitrator deems just and 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.

On February 16, 2021, Claimant advised that the customers in Occurrence Number 1374908 ("Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing. On February 22, 2021, Claimant filed an Affidavit confirming that the Customers were served with the Statement of Claim and notice of the date and time of the expungement hearing.

On February 26, 2021, Respondent filed an unopposed motion to amend its Statement of Answer to accurately represent its position with regard to Claimant's request for expungement of customer dispute information from his CRD records. On March 10, 2021, the Arbitrator granted Respondent's motion to amend its Statement of Answer.

The Arbitrator conducted a recorded, telephonic hearing on June 22, 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 letter submitted on June 1, 2021, did not oppose the request for expungement.

The Customers did not participate in the expungement hearing. The Arbitrator found that the Customers 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 1374908, 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. The Arbitrator also noted that Claimant was required to contribute his insurance deductible by his errors and omissions insurance carrier for the settlement. Expungement is still warranted as Claimant's contribution to the settlement amount was made out of his errors and omissions insurance and the contribution to the settlement was to avoid the cost of litigation.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's exhibits and Claimant's testimony.

### **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 1374908 from registration records maintained by the CRD for Claimant Jeffrey Roger Segelke (CRD Number 3153603) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jeffrey Roger Segelke 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 factually impossible or clearly erroneous.

The Arbitrator has made the above Rule 2080 finding based on the following reasons:

The Arbitrator finds by overwhelming weight of the evidence that the underlying allegations by the Customers are not credible. The Arbitrator finds Claimant's version of events to be credible and supported by the evidence.

The Customers purchased variable universal life insurance policies issued by Penn Mutual Life Insurance Company ("Penn Mutual VUL"). The Customers intended to contribute meaningful annual amounts to the policy premiums to facilitate growing the cash value of the policies. In fact, the Customers paid very little per month in premiums, resulting in very slow, if any, growth in the cash value of the policies. One of the Customers stopped paying premiums altogether and her policy fell into default.

The allegation of misrepresentation is false because Claimant explained the details of the Penn Mutual VUL to the Customers. Additionally, the Customers were provided with comprehensive written materials pertaining to their Penn Mutual VUL

investments and Claimant explained to the Customers that the amount of the premium contributions as well as fluctuation in the securities market could affect the growth rate of the cash value of the Penn Mutual VUL policies.

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
Pre-Hearing Conference: January 19, 2021	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: June 22, 2021	1 session	

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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**

Howard R. Gaines

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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**

***Howard R. Gaines***

Howard R. Gaines  
Sole Public Arbitrator

**07/19/2021**

Signature Date

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July 20, 2021

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