

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

---

In the Matter of the Arbitration Between:

Claimant  
Kathie Herbst Okun

Case Number: 20-02792

vs.

Respondent  
Lincoln Financial Advisors Corporation

Hearing Site: Baltimore, Maryland

---

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 Kathie Herbst Okun (“Claimant”): Chelsea Masters, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Lincoln Financial Advisors Corporation (“Respondent”): Kyle B. Osting, Esq., The Lincoln National Life Insurance Company, Fort Wayne, Indiana.

**CASE INFORMATION**

Statement of Claim filed on or about: August 26, 2020.  
Amended Statement of Claim filed on or about: September 18, 2020.  
Claimant signed the Submission Agreement: August 25, 2020.

Statement of Answer filed on or about: September 8, 2020.  
Respondent signed the Submission Agreement: August 31, 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, Respondent did not oppose and stipulated to Claimant’s expungement request.

### **RELIEF REQUESTED**

In the Statement of Claim, as amended, Claimant requested expungement of Occurrence Number 2000722, compensatory damages in the amount of \$1.00, and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that Claimant's expungement request be granted.

At the hearing, Claimant withdrew the request for \$1.00 in compensatory damages.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On April 8, 2021, Claimant advised that the customer in Occurrence Number 2000722 ("Customer") was served with the Amended Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On April 12, 2021, Claimant filed an Affidavit confirming that the Customer was served with the Notice. Claimant also filed a copy of the FedEx tracking information available online for the notice.

The Arbitrator conducted a recorded, telephonic hearing on May 24, 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 hearing. 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 noted that the dispute related to Occurrence Number 2000722 was not settled and, therefore, there was no settlement documentation to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Amended Statement of Claim, Statement of Answer, 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 2000722 from registration records maintained by the CRD for Claimant Kathie Herbst Okun (CRD Number 1773274) with the understanding that, pursuant to Notice to Members 04-16,

Claimant Kathie Herbst Okun 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; and

The claim, allegation, or information is false.

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

After a review of the facts of this matter, I find that the Customer had been fully informed of the terms, risks, costs, fees and benefits of the annuity, and its guaranteed income rider, prior to its purchase. This is supported by the conclusion of the Maryland Insurance Commissioner, after a hearing to consider the Customer's complaint. The Maryland Insurance Commissioner found that Claimant fully disclosed to the Customer that he was purchasing an annuity, that Claimant did not misrepresent the terms of the annuity or the true nature of the annuity, and that Claimant had a reasonable basis to believe that the variable annuity was suitable based on the information provided by the Customer.

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 @ \$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: May 24, 2021	1 session		
<hr/>			
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**

Brenda J. Stovall

-

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**

***Brenda J. Stovall***

\_\_\_\_\_  
Brenda J. Stovall  
Sole Public Arbitrator

**06/15/2021**

\_\_\_\_\_  
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.

June 15, 2021

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