

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
John Edward Moriarty

Case Number: 20-02816

vs.

Respondent
American General Securities Incorporated

Hearing Site: St. Louis, Missouri

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 John Edward Moriarty (“Claimant”): Erika Binnix, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent American General Securities Incorporated (“Respondent”): James V. Noblett, Esq., Advisor Group, Inc., Jersey City, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: August 27, 2020.
Amended Statement of Claim filed on or about: December 4, 2020.
Claimant signed the Submission Agreement: August 27, 2020.

Statement of Answer filed on or about: November 2, 2020.
Respondent signed the Submission Agreement: October 28, 2020.

CASE SUMMARY

In the Amended 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 request for expungement.

RELIEF REQUESTED

In the Amended Statement of Claim, Claimant requested expungement of Occurrence Number

1235957, 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 did not request any relief.

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 December 4, 2020, Claimant filed a Motion to Amend the Statement of Claim, to which no response was filed. In an Order dated January 11, 2021, the Arbitrator granted the Motion to Amend the Statement of Claim.

On February 23, 2021, Claimant filed a Death Record and obituary for one of the customers in Occurrence Number 1235957. Claimant also advised that the other customer in Occurrence Number 1235957 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On March 1, 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 April 5, 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 occurrences in the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 1235957 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: Claimant's testimony and Claimant's Exhibits 1 and 2.

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 1235957 from registration records maintained by the CRD for Claimant John Edward

Moriarty (CRD Number 2720704) with the understanding that, pursuant to Notice to Members 04-16, Claimant John Edward Moriarty 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:

The preponderance of the evidence, as presented at the hearing, established that, in 2003, Claimant was engaged to consult with another registered representative, Mr. W, in regard to a retirement investment strategy for his clients. Specifically, Claimant was consulted regarding a tax mitigation and insurance investment strategy. No specific insurance products were recommended by Claimant. The customers purchased two whole life insurance policies through Mr. W. Soon after the purchases, the customers submitted a complaint letter from their attorney directed against Claimant and Mr. W, alleging that the insurance products were unsuitable. Claimant and Mr. W believed there was a misunderstanding that could be easily explained. A meeting between all parties, including attorneys and tax advisors, was held. The insurance contracts and tax advantages were re-explained at the meeting. The customers expressed satisfaction with the explanation, and the complaint was withdrawn voluntarily. The customers continued to be clients of Mr. W for many years. No compensation of any kind was paid in exchange for withdrawal of the complaint. The Arbitrator finds that the investment was suitable, a misunderstanding occurred, and, therefore, the allegation was false and clearly erroneous.

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 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:

Two (2) pre-hearing sessions @ \$50.00/session		= \$	50.00
Pre-Hearing Conferences: December 30, 2020	1 session		Waived
January 6, 2021	1 session		
One (1) hearing session on expungement request @ \$50.00/session		= \$	50.00
Hearing: April 5, 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

Robert J. Scafuri - 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

Robert J. Scafuri

Robert J. Scafuri
Sole Public Arbitrator

04/09/2021

Signature Date

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April 09, 2021

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