

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Douglas William Miller

Case Number: 20-02832

vs.

Respondent
Silver Oak Securities, Incorporated

Hearing Site: Hartford, Connecticut

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 Douglas William Miller: Docthor Kennedy, J.D., MBA and Benjamin Winograd, Esq., AdvisorLaw, LLC, Westminster, Colorado.

Respondent Silver Oak Securities, Incorporated did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: August 27, 2020.

Amended Statement of Claim filed on or about: June 23, 2021.

Douglas William Miller signed the Submission Agreement: August 27, 2020.

Silver Oak Securities, Incorporated did not file a Statement of Answer or sign the Submission Agreement.

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”).

RELIEF REQUESTED

In the Amended Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1681891 and 2117221; compensatory damages in the amount of \$1.00 from Respondent and any and all other relief that the Arbitrator deems just and equitable.

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.

Respondent did not file a Statement of Answer or a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure (“Code”) and is bound by the determination of the Arbitrator on all issues submitted.

On May 19, 2021, Claimant advised that the customers in Occurrence Number 1681891 was served with the Statement of Claim and notice of the date and time of the expungement hearing.

On June 28, 2021, Claimant advised that the customers in Occurrence Numbers 1681891 and 2117221 were served with the Second Amended Statement of Claim and notice of the date and time of the expungement hearing. On June 30, 2021, Claimant filed an Affidavit confirming that the customers were served with the Second Amended Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on August 3, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent did not participate in the expungement hearing.

The customers for Occurrence Numbers 1681891 and 2117221 also 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 occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 2117221, 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 and that Claimant contributed to the settlement amount. The Arbitrator recommends expungement of this occurrence because Claimant testified that he was not consulted about the settlement and was ordered by Respondent to contribute to the settlement.

The Arbitrator noted that the dispute related to Occurrence Number 1681891 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 pleadings; Claimant’s testimony; Claimant’s BrokerCheck® Report; and the exhibits.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement

hearing, 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 1681891 from registration records maintained by the CRD for Claimant Douglas William Miller (CRD Number 1969971) with the understanding that, pursuant to Notice to Members 04-16, Claimant Douglas William Miller 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 customer complained that the Claimant did not satisfactorily explain to the customer about the conversion of a company retirement plan to a Roth IRA. However, the evidence and the testimony provided under oath proved that the customer was fully informed and signed documents affirming his understanding of the conversion.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 2117221 from registration records maintained by the CRD for Claimant Douglas William Miller (CRD Number 1969971) with the understanding that, pursuant to Notice to Members 04-16, Claimant Douglas William Miller 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 customers alleged sales practice violations regarding REIT, fee based, equity indexed annuities. The evidence and testimony satisfactorily demonstrated that the customers were purchasing an annuity and signed documentation affirming their understanding of the annuity. Furthermore, the evidence provided proved that the customers had over 20 years of investment experience, and one of the couple was an

accountant who fully understood the nature of the annuity they were entering into and nothing in the record refers to REITs at all. Moreover, the customers were informed about the fees involved when they signed an application explaining those fees. In addition, the Respondent, according to the Claimant's testimony under oath, entered into a settlement agreement without the knowledge or input of the Claimant.

3. 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 event giving rise to the dispute. Accordingly, as a party, Respondent Silver Oak Securities, Incorporated 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 with a single Arbitrator @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: January 4, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: August 3, 2021 1 session

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

Sean Alan D'Amico

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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

Sean Alan D'Amico

Sean Alan D'Amico
Sole Public Arbitrator

08/11/2021

Signature Date

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August 11, 2021

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