

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

William Eugene Davis, III

Case Number: 20-02834

vs.

Respondent

Lincoln Financial Advisors Corporation

Hearing Site: Washington, D.C.

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 William Eugene Davis: Dochter Kennedy, MBA, J.D., and Erika C. Binnix, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Lincoln Financial Advisors Corporation: Kyle B. Osting, Esq., Lincoln Financial Group, Fort Wayne, Indiana.

CASE INFORMATION

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

William Eugene Davis signed the Submission Agreement: August 27, 2020.

Statement of Answer filed by Respondent on or about: October 8, 2020.

Lincoln Financial Advisors Corporation signed the Submission Agreement: October 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 took no position on Claimant’s expungement request and denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1291020;

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 make any requests for relief.

OTHER ISSUES CONSIDERED AND DECIDED

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

On January 4, 2021, Claimant advised that the customer in Occurrence Number 1291020 was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a telephonic hearing on February 16, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and 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 1291020 was not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony, a written report dated September 15, 2004 from a compliance specialist from Wells Real Estate Funds with information addressing the customer's complaint, and a written report dated September 13, 2004 from Lincoln Financial Advisors refuting the allegations made by the customer and supporting denial of his claims.

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 claim for \$1.00 in compensatory damages is granted.
2. The Arbitrator recommends the expungement of all references to Occurrence Number 1291020 from registration records maintained by the CRD for Claimant William Eugene Davis, III (CRD Number 3188964) with the understanding that, pursuant to Notice to Members 04-16, Claimant William Eugene Davis, III 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 false.

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

Claimant thoroughly briefed the customer on the reasons why investing in the REIT might not be a good choice due to a lack of liquidity contrary to the customer's allegations. Claimant even provided a written memo to the customer prior to the investment advising that the Wells REIT might not be the best investment for him. In spite of his complaint, the customer ultimately made a return of over 12% from the investment, instead of the claimed loss of \$235,000. Claimant met with the customer on a number of occasions before his investment. The evidence shows the customer's credibility is weak and that his complaints appeared intended to shift responsibility for his own misjudgments in connection with the Wells REIT investments. The customer's allegations were plainly false. The information is of no value to investors.

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 events giving rise to the dispute. Accordingly, as a party, Respondent Lincoln Financial Advisors Corporation 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: December 14, 2020	1 session	

One (1) hearing sessions on expungement request @ \$50.00/session	= \$	50.00
Hearings: February 16, 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

Michael James Malone

-

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

Michael James Malone

Michael James Malone
Sole Public Arbitrator

04/24/2021

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.

April 26, 2021

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