

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Victor Iannelli

Case Number: 20-02844

vs.

Respondent
MML Investors Services, LLC

Hearing Site: Jersey City, New Jersey

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

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Victor Iannelli: Frances Menzer, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent MML Investors Services, LLC: William P. Thornton, Jr., Esq., Stevens & Lee, Reading, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on or about: August 28, 2020.

Victor Iannelli signed the Submission Agreement: August 28, 2020.

Statement of Answer filed by Respondent on or about: November 3, 2020.

MML Investors Services, LLC signed the Submission Agreement: September 24, 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 asserted various affirmative defenses but did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1907354; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that Claimant's request for damages be denied, and that forum fees be assessed against Claimant.

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 April 29, 2021, Claimant advised that the customer in Occurrence Number 1907354 ("customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. On May 3, 2021, Claimant filed an Affidavit confirming that the customer was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded hearing by videoconference on July 8, 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 also reviewed the settlement documentation related to Occurrence Number 1907354, 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 did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: pleadings, exhibits, Claimant's testimony, Claimant's BrokerCheck® Report, and the settlement agreement.

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 1907354 from registration records maintained by the CRD for Claimant Victor Iannelli (CRD Number 2265515) with the understanding that, pursuant to Notice to Members 04-16, Claimant Victor Iannelli 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:

Claimant testified under oath and through counsel introduced documents which were received into evidence, including his CRD, settlement agreement, account documentation and correspondence. The customer was apprised of the hearing but did not appear or offer any evidence. The customer became Claimant’s client in 1997. He was a high net worth, sophisticated and experienced investor with an objective of growth and aggressive risk tolerance. Over time, they developed a close professional and personal relationship. Claimant assisted with estate planning and other needs, including the establishment of a charitable remainder unitrust and various investments in indexed, variable and fixed annuities to accomplish the customer’s investment charitable goals.

The customer signed all required disclosures and acknowledgements for these interests. From 2001 to 2016 when he became incapacitated, the customer and Claimant spoke frequently to review the status of his investment portfolios. In 2016, arguably well outside the six-year eligibility period under FINRA rules, customer’s representative (his daughter) filed a suit in New Jersey Superior Court alleging unsuitability “beginning in 2001...”. The matter was settled to avoid the risk and expense of litigation in a New Jersey state court. Claimant did not contribute, nor was the settlement conditioned on consent to expungement. This Occurrence should be expunged on the grounds that it is clearly erroneous, false or both. The annuities were suitable for the client at the time they were purchased many years prior to the filing of the lawsuit. Rather, it appears that the claim was based on the customer’s daughter’s dissatisfaction with her father’s decision to invest in a charitable remainder unitrust and the returns generated by the annuities.

Claimant also testified as the adverse impact this Occurrence has had on his business development efforts. The interests of consumer protection and awareness being in no way negatively implicated, the undersigned recommends the above Occurrence be expunged from Claimant’s CRD pursuant to Rule 2080(b)(1)A and C).

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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent MML Investors Services, LLC 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: December 31, 2020		1 session

One (1) hearing session on expungement request @ \$50.00/session	=\$	50.00
Hearing: July 8, 2021		1 session

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

Robert E. Anderson

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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

Robert E. Anderson

Robert E. Anderson
Sole Public Arbitrator

07/22/2021

Signature Date

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July 22, 2021

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