

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Robert Edward Feighan

Case Number: 20-02847

vs.

Respondent

Ameriprise Financial Services, LLC

Hearing Site: New York, New York

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 Robert Edward Feighan: Dochter Kennedy, MBA, J.D. and Chelsea Masters, Esq., Advisor Law, LLC, Westminster, Colorado.

For Respondent Ameriprise Financial Services, LLC: Howard Klausmeier, Esq., Ameriprise Financial Services, LLC, Troy, Michigan.

CASE INFORMATION

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

Robert Edward Feighan signed the Submission Agreement: August 28, 2020.

Statement of Answer filed by Respondent on or about: October 20, 2020.

Ameriprise Financial Services, LLC signed the Submission Agreement: October 20, 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 supported Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1270564 and 2061033; 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 an award be issued that recommends the expungement of the subject customer complaint from Claimant's CRD record and denies any and all relief requested against Respondent.

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 February 23, 2021, Claimant advised that the customers in Occurrence Numbers 1270564 and 2061033 were served with the Statement of Claim and notice of the date and time of the expungement hearing. On March 1, 2021, Claimant filed an Affidavit confirming that the customers were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on March 31, 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 customers in Occurrence Numbers 1270564 and 2061033 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 was unable to review the settlement documentation related to Occurrence Number 1270564 due to the length of time since the settlement was entered into and the Respondent's time for record retention of the settlement document had passed. The Arbitrator considered the amount of payment made to the customer to the settlement. Based on Claimant's testimony, the Arbitrator noted that the settlement was not conditioned on the customer to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount.

The Arbitrator noted that the dispute related to Occurrence Number 2061033 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 1270564 from registration records maintained by the CRD for Claimant Robert Edward Feighan (CRD Number 2194400) with the understanding that, pursuant to Notice to Members 04-16, Claimant Robert Edward Feighan 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; the registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and the claim, allegation, or information is false.

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

The Claimant was not the customers’ financial advisor and had no connection with them when the alleged offense occurred. The matter was settled for approximately 2.6% of what was sought, and the Claimant did not participate in the settlement or payment.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 2061033 from registration records maintained by the CRD for Claimant Robert Edward Feighan (CRD Number 2194400) with the understanding that, pursuant to Notice to Members 04-16, Claimant Robert Edward Feighan 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; the registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and the claim, allegation, or information is false.

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

The complaint was the result of a bitter divorce. The claim, for \$334,000.00, improperly taken from the customer's (the ex-wife's) account, was shown to be absolutely false and either used in the interest of the parties' marital advantage or taken out by the customer herself. The customer never pursued the complaint in arbitration or litigation.

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 Ameriprise Financial Services, LLC 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 23, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: March 31, 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

Richard W. Cutler

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Arbitrator's Signature

Richard W. Cutler

Richard W. Cutler
Sole Public Arbitrator

04/02/2021

Signature Date

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April 05, 2021

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