

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Vera Daikovich

Case Number: 20-02848

vs.

Respondent
LPL Financial LLC

Hearing Site: Los Angeles, California

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 Vera Daikovich: N. Nancy Ghabai, Esq., Ghabai Law Group LLC, Boston, Massachusetts.

For Respondent LPL Financial LLC: Sara B. Davis, Esq., LPL Financial LLC, Boston, Massachusetts.

CASE INFORMATION

Statement of Claim filed on or about: August 28, 2020.
Vera Daikovich signed the Submission Agreement: August 28, 2020.

Statement of Answer filed by Respondent on or about: October 19, 2020.
LPL Financial LLC signed the Submission Agreement: October 19, 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 did not oppose Claimant’s expungement request and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 2051621; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deemed just and equitable.

In the Statement of Answer, Respondent did not delineate any specific relief request.

At the beginning of 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 or about February 3, 2021, Claimant advised that the customer in Occurrence Number 2051621 ("Customer") was served with a copy of the Statement of Claim, notice of the date and time of the expungement hearing and of her right to participate therein. On or about February 3, 2021, Claimant filed with FINRA Dispute Resolution Services a Certificate of Service, along with proof of service via certified mail upon the underlying Customer, advising that the Customer was served with a copy of the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on March 12, 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 noted that the dispute related to Occurrence Number 2051621 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: Claimant's BrokerCheck® Report; Claimant's Statement of Claim, along with Exhibits; and Claimant's Certificate of Service and notice of the date and time of the expungement hearing, along with proof of service via certified mail upon the underlying Customer.

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 2051621 from registration records maintained by the CRD for Claimant Vera Daikovich (CRD Number 4467962) with the understanding that, pursuant to Notice to Members 04-16, Claimant Vera Daikovich 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 requested expungement of the complaint made by the Customer from her CRD records and public BrokerCheck® Report pursuant to FINRA Rules 2080(b)(1)(A) and/or 2080(b)(1)(C). The Arbitrator found the allegations are clearly erroneous and false. The complaint did not involve an arbitration or settlement. Claimant had no prior complaints, arbitrations or disciplinary actions. During the expungement hearing, Claimant credibly testified that over the course of three in-person meetings in 2019 (April 3rd, April 12th and April 26th), Claimant reviewed the features of the Pacific Life/Pacific Choice (“Pacific Life”) variable annuity with the Customer. Claimant explained fully to the Customer the manner in which the Pacific Life variable annuity works and explained the annuity’s potential for long-term growth. The Pacific Life variable annuity was aligned with the Customer’s stated investment objectives. Among the details, Claimant explained that the Pacific Life variable annuity provided principal protection through a guaranteed death benefit, noting that withdrawals from the contract would reduce the guaranteed death benefit, but the Customer could withdraw up to 10% of the contract value annually with no surrender charges. Claimant explained the Pacific Life variable annuity had a five-year surrender schedule for the investment. Claimant provided the Customer with the Pacific Life variable annuity’s Prospectus and the Pacific Life/Pacific Choice Sales Literature. On April 26, 2019, the Customer completed and signed the necessary Respondent’s forms to establish the Pacific Life variable annuity. The Respondent’s documents that the Customer read and signed confirm the suitability basis and investment rationale for the transaction, including the fact that the Customer sought a guaranteed death benefit for her children. Accordingly, the Arbitrator found that the Claimant did discuss the subject annuity in detail with the Customer, and the Customer authorized the purchase of said annuity. Further, given Claimant’s established career and record, the expungement of Occurrence Number 2051621 would not have a material adverse effect on investor protection, the integrity of the CRD system or regulatory requirements.

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

**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 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 12, 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

Joseph C. Watson

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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

Joseph C. Watson

Joseph C. Watson
Sole Public Arbitrator

03/16/2021

Signature Date

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March 16, 2021

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