

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jacob Hamblin Gold

Case Number: 20-02849

vs.

Respondent
Voya Financial Advisors, Inc.

Hearing Site: Phoenix, Arizona

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 Jacob Hamblin Gold (“Claimant”): Michael O’Gara, Esq. and Dochter Kennedy, MBA, J.D., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Voya Financial Advisors, Inc. (“Respondent”): Christina Z. Vourakis, Esq., Winget Spadafora & Schwartzberg LLP, Los Angeles, California.

CASE INFORMATION

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

Statement of Answer filed by Respondent on or about: October 19, 2020.
Respondent signed the Submission Agreement: October 9, 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.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1426298 from Claimant's CRD records pursuant to FINRA Rule 2080, as:
 - a. the claim, allegation, or information is factually impossible or clearly erroneous; and/or
 - b. the Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and/or
 - c. the claim, allegation, or information is false;
2. Compensatory damages in the amount of \$1.00 from Respondent; and
3. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. A statement from the Arbitrator on whether to order recommending expungement of the customer complaint from Claimant's CRD records pursuant to FINRA Rule 2080;
2. Any request for monetary damages against Respondent be denied; and
3. All forum costs and 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 March 9, 2021, Claimant advised that the customers in Occurrence Number 1426298 ("Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing. On March 15, 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 May 27, 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 Customers 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 occurrence in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 1426298, 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. The Arbitrator also noted that Claimant was required to contribute his insurance

deductible by his errors and omissions insurance carrier for the settlement. Expungement is still warranted as Claimant's contribution to the settlement amount was made out of his errors and omissions insurance and the contribution to the settlement was to avoid the cost of litigation.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: pleadings and Claimant's exhibits.

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 1426298 from registration records maintained by the CRD for Claimant Jacob Hamblin Gold (CRD Number 4215589) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jacob Hamblin Gold 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 factually impossible or clearly erroneous.

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

The Arbitrator recommends expungement of Occurrence Number 1426298 from Claimant's CRD records. The Arbitrator finds by overwhelming weight of the evidence that the underlying allegations by the Customers are not credible. The Arbitrator finds Claimant's version of events to be credible and supported by the evidence.

The Customers purchased ReliaStar Select Life II variable universal life insurance policies ("ReliaStar VUL"). The Customers intended to use rising securities values and growing cash value of the policies to pay the ongoing monthly premiums. A precipitous decline in market securities eroded the cash value of the policies and the Customers were required to make ongoing premium payments out of pocket. The allegation of misrepresentation is false because Claimant explained the details of the ReliaStar VUL to the Customers. Additionally, the Customers were provided with comprehensive written materials pertaining to their ReliaStar VUL investments and Claimant explained to the Customers that fluctuations in the securities market could affect the amount of the ReliaStar VUL monthly premiums.

The Arbitrator finds the Customers' allegations and version of events are not supported by the evidence, and therefore, factually false or clearly erroneous. For

these reasons, a recommendation of expungement of Claimant's record is appropriate.

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(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
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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 28, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: May 27, 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

Howard R. Gaines

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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

Howard R. Gaines

Howard R. Gaines
Sole Public Arbitrator

06/22/2021

Signature Date

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June 23, 2021

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