

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Brian Allen Peardon

Case Number: 20-02861

vs.

Respondent  
NYLife Securities LLC

Hearing Site: San Francisco, California

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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 Brian Allen Peardon (“Claimant”): Kurt Zimmerman, Esq., HLBS Law, Westminster, Colorado.

For Respondent NYLife Securities LLC (“Respondent”): Andrew S. Azarmi, Esq., Dentons US LLP, San Francisco, California.

**CASE INFORMATION**

Statement of Claim filed on or about: August 31, 2020.  
Claimant signed the Submission Agreement: August 28, 2020.

Statement of Answer filed by Respondent on or about: October 22, 2020.  
Respondent signed the Submission Agreement: October 22, 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 1456001 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. 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 did not set forth any specific request for relief.

At the hearing, Claimant withdrew the request for \$1.00 in compensatory damages.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On January 11, 2021, Claimant advised that the customer in Occurrence Number 1456001 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. On January 18, 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, telephonic hearing on February 17, 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 1456001, 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: Statement of Claim; Statement of Answer; Claimant's exhibits; Claimant's BrokerCheck® Report; Claimant's testimony; and Respondent's testimony.

### **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 1456001 from registration records maintained by the CRD for Claimant Brian Allen Peardon (CRD Number 4819319) with the understanding that, pursuant to Notice to Members 04-16, Claimant Brian Allen Peardon 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 claim, allegation, or information is false.

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

The Complaint had to do with the purchase of a variable life insurance policy (“Policy”). In May 2006, the Customer alleged that she was misled as to what she had to do to protect the Policy. The Customer alleged that Claimant re-assured her that the Policy’s initial deposit amount would cover the Policy for several years and she later found out that the Policy had been cancelled. Claimant was no longer with Respondent when the complaint was filed, was notified of the complaint by Respondent, and had no further dealings with the issue.

Respondent found no evidence to support the allegations in the complaint and determined that the Customer received the necessary information and appropriate disclosures to make an informed investment decision. In the interest of good customer relations, Respondent ultimately reinstated the policy. In Respondent’s Statement of Answer, it was stated that Respondent did not contest expungement. The Customer filed a document that released and discharged Respondent and Claimant from any claims. This was done without a condition that the Customer not oppose the request for expungement.

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 21, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00  
Hearing: February 17, 2021 1 session

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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 Lancaster Garcia

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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**

***Michael Lancaster Garcia***

Michael Lancaster Garcia  
Sole Public Arbitrator

**03/03/2021**

Signature Date

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March 4, 2021

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