

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Gustavo LaGuarda

Case Number: 20-02866

vs.

Respondent
BB&T Investment Services, Inc.

Hearing Site: Washington, D.C.

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 Gustavo LaGuarda: Doctor Kennedy, J.D., MBA and Michael O’Gara, Esq., Advisor Law, LLC, Westminster, Colorado.

For Respondent BB&T Investment Services, Inc.: Christina M. Hill, Esq., Murphy & McGonigle, PC, Washington, District of Columbia.

CASE INFORMATION

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

Gustavo LaGuarda signed the Submission Agreement: August 28, 2020.

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

BB&T Investment Services, Inc. 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 took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1957642; 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 the Arbitrator assess any and all forum fees to 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 February 23, 2021, Claimant advised that the customer in Occurrence Number 1957642 was 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 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 April 29, 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, took no position on 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 1957642 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 BrokerCheck® Report; Claimant's exhibits; and Claimant's testimony.

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 1957642 from registration records maintained by the CRD for Claimant Gustavo LaGuarda (CRD Number 4741774) with the understanding that, pursuant to Notice to Members 04-16, Claimant Gustavo LaGuarda 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 false.

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

From the credible and unrefuted testimony of Claimant and evidence presented at the hearing, the customer was a knowledgeable, sophisticated, and experienced investor. The customer had over 30 years of investment experience in the stock market, mutual funds, and 401{k} plans. He was always intimately informed and actively engaged in his investment decisions both privately and through the offices of Claimant and Respondent. The customer alleged that the investment that he purchased was not adequately explained to him, but this allegation was disputed by both Claimant and Respondent with no rebuttal evidence offered by the customer. The evidence also indicates that there was no sales practice violation involved in this case. The customer did not pursue his claim in either arbitration or in court after Respondent denied his claim.

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 event giving rise to the dispute. Accordingly, as a party, Respondent BB&T Investment Services, Inc. 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
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Pre-Hearing Conference:	December 14, 2020	1 session		
One (1) hearing session on expungement request @		\$50.00/session	= \$	50.00
Hearing:	April 29, 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

Douglas Earl McLaren

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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

Douglas Earl McLaren

Douglas Earl McLaren
Sole Public Arbitrator

05/03/2021

Signature Date

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May 04, 2021

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