

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jeffrey Paul Rogers

Case Number: 20-02873

vs.

Respondents
QA3 Financial, LLC and
United Planners Financial Services

Hearing Site: Orlando, Florida

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. Members

This case was administered under the Special Proceeding option for simplified cases.

REPRESENTATION OF PARTIES

For Claimant Jeffrey Paul Rogers (“Claimant”): Brian Luther, Esq., FA Expungement, LLC, Denver, Colorado.

Respondent QA3 Financial, LLC (“QA3”) did not appear.

For Respondent United Planners Financial Services (“United”): Dave Hauer, CCO, United Planners Financial Services, Scottsdale, Arizona.

CASE INFORMATION

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

QA3 did not file a Statement of Answer or sign the Submission Agreement.

Statement of Answer filed by United on or about: September 25, 2020.
United signed the Submission Agreement: September 24, 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, United stipulated to Claimant's expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1435796 and 1648318 and compensatory damages in the amount of \$1.00.

In the Statement of Answer, United did not request any 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.

QA3 did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code").

On January 21, 2021, Claimant advised that the customers in Occurrence Numbers 1435796 and 1648318 ("Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notices"). On February 3, 2021, Claimant filed copies of the USPS tracking information available online for the Notices.

On April 13, 2021, Claimant filed a copy of a letter from the customer in Occurrence Number 1648318 supporting Claimant's expungement request.

The Arbitrator conducted a recorded, telephonic hearing on May 11, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

QA3 did not participate in the expungement hearing.

United 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 occurrences in the CRD.

The Arbitrator noted that the disputes related to Occurrence Numbers 1435796 and 1648318 were not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony 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:

The Arbitrator recommends the expungement of all references to Occurrence Numbers 1435796 and 1648318 from registration records maintained by the CRD for Claimant Jeffrey Paul Rogers (CRD Number 2332472) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jeffrey Paul Rogers 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, 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:

Occurrence Number 1435796

Based on Claimant's testimony, he met with the customers, Mr. and Mrs. S, several times before and after their complaint about a variable annuity. Mr. S was most interested in the overall performance, and Mrs. S was most interested in the death benefit. Mr. and Mrs. S kept the annuity in their account and remained Claimant's clients until Mr. S's death, at which time Mrs. S claimed the associated death benefit. An independent witness, RM, who was present when Claimant explained the annuity and other investments to the customers, indicated that he believed they understood the investments at that time but later forgot what Claimant said. Claimant also testified that they forgot what he had explained to them. The customers' complaint was closed by the firm without action.

Occurrence Number 1648318

When Claimant sold the customer a variable annuity, Claimant received the customer's verbal authority to manage the annual reallocation of subaccounts. After the customer filed a written complaint, Claimant met with the customer and secured the customer's written authorization for managing the reallocations. United determined that the customer was not damaged, and no action was taken on the customer's complaint. Claimant's conduct was allowed by QA3, and he did not understand that United required written authorization until this incident. Additionally, the customer wrote a letter stating that he did not realize that he had filed a complaint. Per Claimant's testimony, the customer is still Claimant's client and has introduced family members to Claimant, who also have become Claimant's customers.

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 parties, QA3 and United are each assessed the following:

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|------------------|-----|--------|
| 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 @ \$50.00/session | =\$ | 50.00 |
| Pre-Hearing Conference: December 28, 2020 | 1 session | |

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| One (1) hearing session on expungement request @ \$50.00/session | =\$ | 50.00 |
| Hearing: May 11, 2021 | 1 session | |

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|----------------------------|-----|--------|
| 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

Martin M. Van Luven

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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

Martin M. Van Luven

Martin M. Van Luven
Sole Public Arbitrator

05/19/2021

Signature Date

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.

May 19, 2021

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