

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Peter Helmut Vanflein

Case Number: 20-02923

vs.

Respondent
Edward Jones

Hearing Site: Anchorage, Alaska

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 Peter Helmut Vanflein (“Claimant”): Frances Menzer, Esq., AdvisorLaw LLC, Westminster, Colorado.

For Respondent Edward Jones (“Respondent”): Teresa Thong, Esq., Keesel Young & Logan, Long Beach, California.

CASE INFORMATION

Statement of Claim filed on or about: September 2, 2020.
Claimant signed the Submission Agreement: September 1, 2020.

Statement of Answer filed on or about: October 15, 2020
Respondent signed the Submission Agreement: September 29, 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 made in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Numbers 1102657 and 1213593 from Claimant's CRD records pursuant to FINRA Rule 2080, as:
 - a. the claims, allegations, 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 claims, allegations, 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 any relief sought against Respondent be denied, including but not limited to the \$1.00 in damages.

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 15, 2021, Claimant filed an Affidavit confirming that the customer in Occurrence Number 1102657 ("Customer S") and the customer in Occurrence Number 1213593 ("Customer B") 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 March 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, did not oppose the request for expungement.

Customer S participated in the expungement hearing and was represented by Gary Stapp, Esq., from Fairbanks, Alaska. Customer S opposed the expungement request.

Customer B did not participate in the expungement hearing. The Arbitrator found that Customer B 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 1102657 and 1213593 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 Statement of Claim with exhibits; Claimant's BrokerCheck® Report; and testimony provided by Claimant and Customer S at the expungement hearing.

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 Numbers 1102657 and 1213593 from registration records maintained by the CRD for Claimant Peter Helmut Vanflein (CRD Number 1993463) with the understanding that, pursuant to Notice to Members 04-16, Claimant Peter Helmut Vanflein 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:

Occurrence Number 1102657

Testimony and evidence show that all of Respondent’s monthly and quarterly account statements listed, described and tracked Customer S’ self-directed, non-discretionary investments in aggressive high-tech and communications entities. All of those account statements were received, reviewed and approved by Customer S and many were discussed with Claimant throughout their relationship. Customer S is educated, has investment experience, and even directed Claimant to purchase high-risk securities against Claimant’s advice. Market volatility caused the loss. Respondent investigated and Denied this complaint, no Settlement was offered by Respondent and the Customer did not file an Arbitration Claim against Claimant.

Occurrence Number 1213593

The complaint that resulted in this occurrence was made by Customer B, the daughter of the beneficiary of a trust. That beneficiary and the trustee of the trust never complained about Claimant, the investment advisor of Respondent for the trust. Customer B represented that she had a power of attorney (“POA”) many months before she actually had it. When she finally produced it, Respondent and Claimant both reviewed the POA and concluded that it did not grant Customer B any authority over the trust or the trustee who continued to invest suitably and appropriately on behalf of the trust and the beneficiary. Customer B then used the POA to terminate the trust and invest on behalf of her mother differently and not through the Claimant. Respondent investigated and Denied

this complaint, no Settlement was offered by Respondent and the Customer did not file an Arbitration Claim against Claimant.

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 that employed the associated person at the time of the events 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: January 5, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: March 29, 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

John J. Fitzpatrick, Jr.

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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

John J. Fitzpatrick, Jr.

John J. Fitzpatrick, Jr.
Sole Public Arbitrator

04/12/2021

Signature Date

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April 12, 2021

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