

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

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In the Matter of the Arbitration Between:

Claimant  
Eric Edward Wegner

Case Number: 20-02937

vs.

Respondent  
Sigma Financial Corporation

Hearing Site: Minneapolis, Minnesota

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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 Eric Edward Wegner (“Claimant”): Frances Menzer, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Sigma Financial Corporation (“Respondent”): Randolph F. Pistor, II, Esq., Sigma Financial Corporation, Ann Arbor, Michigan.

**CASE INFORMATION**

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

Statement of Answer filed on or about: September 18, 2020.  
Respondent signed the Submission Agreement: September 18, 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 denied any wrongdoing and opposed Claimant’s expungement request.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1804891, compensatory damages in the amount of \$1.00, and any and all other relief that the Arbitrator

deems just and equitable.

In the Statement of Answer, Respondent requested an award denying Claimant's request for \$1.00 in compensatory damages and assessing the forum fees against Claimant.

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 February 16, 2021, Claimant advised that the customer in Occurrence Number 1804891 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On February 22, 2021, Claimant filed an Affidavit confirming that the Customer was served with the Notice. Claimant also filed a copy of the FedEx tracking information available online for the Notice.

The Arbitrator conducted a recorded, telephonic hearing on April 1, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing.

The Customer also 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 1804891 was not settled and, therefore, there was no settlement documentation to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony and Claimant's Exhibits 1-10.

### **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 1804891 from registration records maintained by the CRD for Claimant Eric Edward Wegner (CRD Number 2044977) with the understanding that, pursuant to Notice to Members 04-16, Claimant Eric Edward Wegner 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:

The Customer was not charged any fees when Claimant's broker-dealer was sold to Respondent in early 2011. The Customer was confused about the status of Transamerica, which was the annuity issuer and not a broker-dealer firm. In any event, in contrast to statements in the Customer's written complaint, no fees were charged.

Further, the Customer signed acknowledgements that all fees, expenses, and deferred sales charges associated with the annuities were fully disclosed to him. The Customer completed and signed subscription and disclosure documents and reviewed the prospectuses associated with each of the annuities. The Customer affirmed, in writing, his understanding of the fees, charges, expenses, and risks associated with the annuities. Claimant testified that he thoroughly discussed surrender costs with the Customer and, despite such costs, the Customer bought a second annuity a few months after the first. Therefore, the Customer was informed twice about costs and fees associated with the annuities.

At the time the annuities were bought, the Customer signed a document affirming that his investment goal was growth and his risk tolerance was high. The annuities met his goals of being invested in equities and investments that provided a death benefit. The Customer did not complain about the annuities until almost four years later, when he was being advised by another financial advisor and objected to the surrender costs. At the time he complained, the value of the Customer's annuities had made significant gains.

The Customer complained directly to Transamerica. Transamerica contacted Claimant's broker-dealer and conducted an investigation, which resulted in a denial of the Customer's request to liquidate his annuities without any penalties. In correspondence to the Customer, Transamerica stated, “We find the allegations against Mr. Wegner to be unfounded.” The Customer did not further pursue 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

*\*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 @ \$50.00/session = \$ 50.00  
Pre-Hearing Conference: December 29, 2020 1 session

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

Susan L. Walker

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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**

***Susan L. Walker***

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Susan L. Walker  
Sole Public Arbitrator

**04/07/2021**

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Signature Date

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April 07, 2021

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