

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
William Heartsill Young

Case Number: 20-02938

vs.

Respondent
Lincoln Financial Advisors Corporation

Hearing Site: Houston, Texas

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 William Heartsill Young (“Claimant”): Erika Binnix, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Lincoln Financial Advisors Corporation (“Respondent”): Michael W. Arnold, Esq., Lincoln Financial Group, Fort Wayne, Indiana.

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: October 26, 2020.
Respondent signed the Submission Agreement: October 26, 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 supported Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 2071910, 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 that any monetary relief be denied and that all hearing fees be assessed to 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 1, 2021, Claimant advised that the customer in Occurrence Number 2071910 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On February 9, 2021, Claimant filed an Affidavit confirming the Customer was served with the Notice. Claimant also filed a copy of the FedEx tracking information available online for the Notice.

On March 10, 2021, the Customer submitted a written statement explaining the events related to the underlying dispute.

The Arbitrator conducted a recorded, telephonic hearing on March 18, 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, supported the request for expungement.

The Customer also participated in the expungement hearing but opposed the expungement request.

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 2071910 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: BrokerCheck® Report, the Customer's written statement, Client Profile form, Portfolio Rebalancing Election form, Annuity Contract Confirmation & Statement, Respondent's response letter to the Customer's complaint letter, Claimant's testimony, the Customer's testimony, documents regarding the Notice, and all other party submissions.

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 2071910 from registration records maintained by the CRD for Claimant William Heartsill

Young (CRD Number 2388582) with the understanding that, pursuant to Notice to Members 04-16, Claimant William Heartsill Young 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 factually impossible or clearly erroneous.

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

In March 2020, the Customer alleged trades were placed in her account by Claimant without her permission in January 2020. The evidence reflects that the Customer executed a Portfolio Rebalancing Election form in February 2018, which resulted in automatic rebalancing of her account on an annual basis, beginning on January 5, 2019. Claimant did not initiate the January 2020 transactions in the Customer's account. All of the relevant transactions occurred automatically, consistent with the Customer's rebalancing instructions.

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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge Fee	= \$	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 @ \$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 18, 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

Sherry R. Wetsch

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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

Sherry R. Wetsch

Sherry R. Wetsch
Sole Public Arbitrator

03/23/2021

Signature Date

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March 23, 2021

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