

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Robert James Ferrari

Case Number: 20-03062

vs.

Respondent
Signator Investors, Inc.

Hearing Site: Jersey City, New Jersey

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 Robert James Ferrari: Dochter Kennedy, MBA, J.D. and Frances Menzer, Esq., Advisor Law, LLC, Westminster, Colorado.

For Respondent Signator Investors, Inc.: James V. Noblett, Esq., Advisor Group, Jersey City, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: September 8, 2020.

Robert James Ferrari signed the Submission Agreement: September 8, 2020.

Statement of Answer filed by Respondent on or about: September 10, 2020.

Signator Investors, Inc. signed the Submission Agreement: September 10, 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.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1475691; 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 reserve the right to seek attorneys' fees and arbitration costs, including FINRA member surcharges and /or fees, against Claimant pursuant to indemnity provisions of the Signator Registered Representative agreement.

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 1, 2021, Claimant advised that the customer in Occurrence Number 1475691 was served with the Statement of Claim and notice of the date and time of the expungement hearing. On February 5, 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 7, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and did not oppose 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 also reviewed the settlement documentation related to Occurrence Number 1475691, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request. The Arbitrator noted that although Claimant contributed to the settlement, the amount paid was based on a business decision to avoid the more expensive cost of litigation of the claim. Also, the settlement amount was a small portion of the FINRA claim for damages.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings; Claimant's testimony; Claimant's BrokerCheck® Reports; and exhibits.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, 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 1475691 from registration records maintained by the CRD for Claimant Robert James Ferrari

(CRD Number 2269841) with the understanding that, pursuant to Notice to Members 04-16, Claimant Robert James Ferrari 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:

Claimant is a longtime professional in the financial industry specializing in the selling of life insurance, health, disability, long term care, annuities, and other products. In 1993 shortly after becoming a registered representative he met the client in this matter who was then a 19-year-old young woman who was legally blind as a result of a medical malpractice injury. Due to her financial, health situation and family obligations, it was deemed necessary for her to have a safe secure investment for her \$1.5 million dollar settlement.

The customer was legally blind having limited employment opportunities and because of her health status was considered uninsurable for a normal life insurance policy. Claimant and the client would have to and did spend significant time over many years to come up with reasonable yet flexible plan to invest her assets. The money was necessary to provide income for her but also keep her assets away from the requests for loans and demands for money from others who knew of her settlement and sought to borrow money from her.

The customer was content and remained Claimant’s customer for many years until the financial crisis of 2008-2009. As a result of the unpredictable crisis, the variable annuity which had served her well so many years suffered a loss. On October 13, 2008, Claimant was informed that he had been removed from servicing the annuity contract purchased by the customer and then on July 21, 2009, the customer filed for a FINRA arbitration alleging that the Claimant sold her products that were not suitable for her investment needs and as a result she incurred losses. The amount claimed was \$171,207.00.

The Claimant testified that as part of a business decision, the customer settled with Claimant and Respondent for the sum of \$50,000.00. Claimant was responsible for half of the amount or \$25,000.00 of the settlement but paid \$1000.00 out of pocket as a result of his insurance policy.

The Claimant testified credibly that at the time not only did this seem a good business decision given the cost of litigation, but it was also a good decision because of a severe family personal tragedy.

Based upon Claimant's testimony and the documents signed by the customer at the time of opening her accounts and when purchases were made, it was clear the customer understood and received the proper information to understand her investments and those investments were in fact suitable. The long-term nature of the account relationship shows that the customer was satisfied with Claimant's financial advice until the great recession of 2008-2009, which no one could have predicted.

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 event giving rise to the dispute. Accordingly, as a party, Respondent Signator Investors, Inc. 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 25, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: April 7, 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

Linda J. Baer

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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

Linda J. Baer

Linda J. Baer
Sole Public Arbitrator

04/13/2021

Signature Date

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April 14, 2021

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