

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
William Wei-Kuang Ho

Case Number: 20-03077

vs.

Respondent
NYLife Securities, LLC

Hearing Site: Columbus, Ohio

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 Wei-Kuang Ho (“Claimant”): Stephan Louviere, Esq., Louviere Law Firm, P.A., Pompano Beach, Florida.

For Respondent NYLife Securities, LLC (“Respondent”): Richard F. Lubarsky, Esq., Lubarsky Law Firm PLLC, White Plains, New York.

CASE INFORMATION

Statement of Claim filed on or about: September 9, 2020.
Claimant signed the Submission Agreement: September 9, 2020.

Statement of Answer filed on or about: October 26, 2020.
Respondent signed the Submission Agreement: October 9, 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 took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1869871 and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent requested that the Arbitrator deny Claimant's request for \$1.00 (or any other amount) against Respondent and assess all forum and arbitrator's 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 March 5, 2021, Claimant advised that the customer in Occurrence Number 1869871 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). Claimant filed a copy of the FedEx tracking information available online for the Notice.

The Arbitrator conducted a recorded, telephonic hearing on March 25, 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, took no position on 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 noted that the dispute related to Occurrence Number 1869871 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: the pleadings, Claimant's Memorandum of Law, and Claimant's testimony.

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 Number 1869871 from registration records maintained by the CRD for Claimant William Wei-Kuang Ho (CRD Number 6059029) with the understanding that, pursuant to Notice to Members 04-16, Claimant William Wei-Kuang Ho 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 received funds from a 401(k). In order to avoid immediate taxes, she invested the money in a variable annuity. Claimant thoroughly explained all aspects of the investment, including the penalty for early withdrawal and tax consequences. When the Customer advised that she intended an early withdrawal, Claimant and a representative of the annuity company advised against it and explained to the Customer that she may avoid the penalty by either transferring the funds piecemeal or not transferring them. The Customer transferred the funds and then complained about the penalty. Respondent offered the Customer the opportunity to reverse the full surrender of the annuity and the associated surrender charges incurred in exchange for returning the net surrender proceeds and reinstating the policy; however, the Customer neither accepted Respondent’s offer nor took any further action concerning the surrender charges under the policy.

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 28, 2021	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: March 25, 2021 1 session		
<hr/> 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 F. Burns

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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 F. Burns

John F. Burns
Sole Public Arbitrator

03/26/2021

Signature Date

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March 26, 2021

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