

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Toni Lynn Iannarelli

Case Number: 20-03100

vs.

Respondent

Ameritas Investment Company, LLC

Hearing Site: Los Angeles, California

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

This case was administered under the Special Proceeding option for simplified cases.

REPRESENTATION OF PARTIES

For Claimant Toni Lynn Iannarelli (“Claimant”): Avi Rosenfeld, Esq., The Rosenfeld Law Office, Lawrence, New York.

For Respondent Ameritas Investment Company, LLC (“Respondent”): Andrea D. Snowden, Esq., Ameritas Investment Company, LLC, Lincoln, Nebraska.

CASE INFORMATION

Statement of Claim filed on or about: September 9, 2020.

Claimant signed the Submission Agreement: September 22, 2020.

Statement of Answer filed by Respondent on or about: October 29, 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.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1462010 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous;
2. Expungement of Occurrence Number 1462010 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(B), as Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds;
3. Expungement of Occurrence Number 1462010 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
4. Compensatory damages in the amount of \$1.00 from Respondent; and
5. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. Compensatory damages in the amount of \$1.00 be denied; and
2. All costs and fees be assessed against Claimant.

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 November 14, 2021, Claimant advised that the customers in Occurrence Number 1462010 ("Customers") 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 December 13, 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.

The Customers did not participate in the expungement hearing. The Arbitrator found that the Customers 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.

Claimant was unable to locate and produce the settlement agreement relates to Occurrence Number 1462010 ("Settlement Agreement") for the Arbitrator to review. On December 10, 2021, Claimant's counsel submitted an Affirmation of Diligent Search to the Arbitrator stating that Claimant conducted a diligent search for the Settlement Agreement and was unable to locate any documents concerning the customer complaint in Occurrence Number 1462010, including the Settlement Agreement. Claimant further stated in the Affirmation of Diligent Search that her previous counsel shredded a copy of the Settlement Agreement six years after the customer dispute was settled. The Arbitrator reviewed the settlement amount and Claimant's contribution

amount from Claimant's BrokerCheck® Report. The Arbitrator noted that expungement is still appropriate as diligent efforts were made to locate the Settlement Agreement and the available evidence shows that the contribution amount was nominal and Claimant contributed to the settlement to avoid the cost of litigation. The Arbitrator also noted that the date of the settlement preceded the effective date of the rule against conditioned settlement.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report; the Statement of Claim; Claimant's testimony; service of notice of expungement hearing on the Customers and proof of that service; and Affirmation of Diligent Search on the Settlement Agreement.

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 1462010 from registration records maintained by the CRD for Claimant Toni Lynn Iannarelli (CRD Number 1193641) with the understanding that, pursuant to Notice to Members 04-16, Claimant Toni Lynn Iannarelli 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 registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

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

Claimant was one of many registered representatives caught up in a massive case of investor fraud, both as a customer herself as well as a registered representative. Another unnamed advisor, who fled the country while under investigation for allegedly defrauding investors of hundreds of millions of dollars, was arrested in France.

The unnamed advisor ran a \$228 million-dollar Ponzi scheme, in which he promised to invest in rental properties but instead diverted millions of dollars to himself, his family and his friends. An FBI Special Agent said in an affidavit that the unnamed advisor was charged with mail and wire fraud and noted that the unnamed advisor had taken \$228 million from more than 1,500 investors, promising annual returns of 9% or 12%. The unnamed advisors returned \$37 million as interest payments and diverted \$57 million for himself and others.

The Securities and Exchange Commission (“SEC”) shut down the unnamed advisor’s company and filed civil chares accusing him of operating a massive Ponzi scheme since 2004. The SEC froze the unnamed advisor’s assets in 2009. The unnamed advisor died in French custody in 2012 while awaiting extradition to the United States on charges related to the scam.

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 firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge	= \$	150.00
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Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

March 19, 2021, postponement requested by Claimant	=	WAIVED
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Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

March 19, 2021, cancellation requested by Claimant	=	WAIVED
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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 with a single Arbitrator @ \$50.00/session	= \$	50.00
Pre-Hearing Conference: January 12, 2021	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: December 13, 2021	1 session	

Total Hearing Session Fees	= \$	100.00
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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

Robert E. Jenks

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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

Robert E. Jenks

Robert E. Jenks
Sole Public Arbitrator

12/15/2021

Signature Date

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December 15, 2021

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