

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Phil Scott

Case Number: 20-03101

vs.

Respondent
Merrill Lynch, Pierce, Fenner & Smith Inc.

Hearing Site: Seattle, Washington

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 Phil Scott (“Claimant”): Harris Freedman, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Merrill Lynch, Pierce, Fenner & Smith Inc. (“Respondent”): Laura A. Pizzitola, Esq., Bressler, Amery & Ross, P.C., Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: September 9, 2020.
Amended Statement of Claim filed on or about: June 18, 2021.
Claimant signed the Submission Agreement: September 9, 2020.

Statement of Answer filed by Respondent on or about: December 8, 2020.
Answer to Amended Statement of Claim filed by Respondent on or about: June 30, 2021.
Respondent signed the Submission Agreement: December 8, 2020.

CASE SUMMARY

In the Statement of Claim and Amended 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 and Answer to Amended Statement of Claim, Respondent took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Numbers 1491792, 1525720, and 1560560 from Claimant's CRD records pursuant to FINRA Rule 2080, as:
 - a. the claim, allegation, or information is factually impossible or clearly erroneous; and/or
 - b. Claimant was not involved in the alleged investment-relates sales practice violation, forgery, theft, misappropriation, or conversion of fund; and/or
 - c. the claim, allegation, or information is false;
2. Compensatory damages in the amount of \$1.00 from Respondent; and
3. Any and all other relief that the Arbitrator deems just and equitable.

In the Amended Statement of Claim, Claimant requested:

1. Expungement of Occurrence Numbers 1491792 and 1525720, from Claimant's CRD records pursuant to FINRA Rule 2080, as:
 - a. the claim, allegation, or information is factually impossible or clearly erroneous; and/or
 - b. Claimant was not involved in the alleged investment-relates sales practice violation, forgery, theft, misappropriation, or conversion of fund; and/or
 - c. the claim, allegation, or information is false;
2. Compensatory damages in the amount of \$1.00 from Respondent; and
3. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer and Answer to Amended Statement of Claim, Respondent requested compensatory damages be denied.

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 June 7, 2021, in accordance with FINRA Rule 13203, the Director denied the use of the FINRA forum with respect to Claimant's expungement request for Occurrence Number 1560560 as the disclosure was the subject of a previous expungement request that was denied by award in FINRA case 11-00867. FINRA also requested Claimant file an amended Statement of Claim removing all references to Occurrence Number 1560560.

On June 14, 2021, the Arbitrator ordered Claimant to submit an amended statement of claim to remove all references to Occurrence Number 1560560. On June 18, 2021, Claimant filed an Amended Statement of Claim removing all references to Occurrence Number 1560560.

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. Claimant's (CRD number 1306585) request for expungement of Occurrence Numbers 1491792 and 1525720 from his registration records maintained by the CRD is denied.
2. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code of Arbitration Procedure, 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:

June 9, 2021, postponement requested by Claimant	= \$	50.00
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Total Postponement Fees	= \$	50.00
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The Arbitrator has assessed the total postponement fees to Claimant.

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:

Two (2) pre-hearing sessions with a single Arbitrator @ \$50.00/session	= \$	100.00
Pre-Hearing Conferences: January 27, 2021	1 session	
June 14, 2021	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: August 19, 2021	1 session	

Total Hearing Session Fees	= \$	150.00
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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

Jane Ann McKenzie

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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

Jane Ann McKenzie

Jane Ann McKenzie
Sole Public Arbitrator

09/10/2021

Signature Date

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September 10, 2021

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