

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Julia A. Brufke Wenger

Case Number: 20-03132

vs.

Respondent
Cincinnati Analysts, Inc., f/n/a Capital Analysts,
Incorporated

Hearing Site: Philadelphia, Pennsylvania

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. Members

REPRESENTATION OF PARTIES

For Claimant Julia A. Brufke Wenger: Stephan Louviere, Esq., Louviere Law Firm, P.A., Pompano Beach, Florida.

For Respondent Cincinnati Analysts, Inc.: Mark J. Mahoney, Esq., Western & Southern Financial Group, Cincinnati, Ohio.

CASE INFORMATION

Statement of Claim filed on or about: September 10, 2020.

Amended Statement of Claim filed on or about: October 2, 2020.

Julia A. Brufke Wenger signed the Submission Agreement: October 2, 2020.

Statement of Answer filed by Respondent on or about: November 12, 2020.

Cincinnati Analysts, Inc. signed the Submission Agreement: November 12, 2020.

CASE SUMMARY

In the 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, Respondent took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Amended Statement of Claim, Claimant requested: expungement of Occurrence Number 1466329 and compensatory damages in the amount of \$1.00 from Respondent.

In the Statement of Answer, Respondent requested to be dismissed from this action.

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.

A Statement of Claim was filed on December 10, 2020. It was not served on Respondent and not considered by the Arbitrator.

On March 18, 2021, Claimant advised that the customer related to Occurrence Number 1466329 is deceased. The current address of the person filing the complaint (who was not the customer) with the Pennsylvania Department of Insurance in 2009 could not be ascertained, after a reasonable search.

The Arbitrator conducted a recorded, telephonic hearing on April 6, 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 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 1466329 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, the exhibits, Claimant's BrokerCheck® Report, and Claimant's testimony.

AWARD

After considering the pleadings, the testimony and evidence presented at the telephonic 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 1466329 from registration records maintained by the CRD for Claimant Julia A. Brufke Wenger (CRD Number 3100187) with the understanding that, pursuant to Notice to Members 04-16, Claimant Julia A. Brufke Wenger 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 had discussions with the customer to provide a monthly income with minimal assets. Claimant recommended that the customer purchase a Prudential hybrid single-premium variable annuity, which provided the customer with an annual minimum monthly income stream of 10% for the remainder of her life; there was a potential of growth and increased monthly income depending on the market. The customer understood the need for the product and purchased the annuity and enjoyed the monthly income until her death in 2008. An heir of the customer complained that there was no death benefit. Because of the market downturn in 2007-2009, the value of the annuity had diminished to the point where no death benefits were available to the customer’s heirs. No additional death benefit rider was available. The allegations in the complaint were false and erroneous.

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 events giving rise to the dispute. Accordingly, as a party, Respondent Cincinnati Analysts, 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 19, 2021	1 session		
One (1) hearing session on expungement request @ \$50.00/session			= \$	50.00
Hearing:	April 6, 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

Guillermo L. Bosch

-

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

Guillermo L. Bosch

Guillermo L. Bosch
Sole Public Arbitrator

04/12/2021

Signature Date

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.

April 13, 2021

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