

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Garyn Ian Angel

Case Number: 20-03144

vs.

Respondents
Invest Financial Corporation and
Transamerica Financial Advisors, Inc.

Hearing Site: Tampa, Florida

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

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Garyn Ian Angel (“Claimant”): Joshua A. Katz, Esq., James D. Sallah, Esq., and Joshua F. Bautz, Esq., Sallah Astarita & Cox, LLC, Boca Raton, Florida.

For Respondent Invest Financial Corporation (“IFC”): Eric A. Michaels, Esq. and Piotr Krypciak, Esq., Saretsky Hart Michaels + Gould PC, Birmingham, Michigan.

For Respondent Transamerica Financial Advisors, Inc (“Transamerica”): Susan D. Duff, Esq., Transamerica Financial Advisors, Inc., St. Petersburg, Florida.

CASE INFORMATION

Statement of Claim filed on or about: September 11, 2020.
Claimant signed the Submission Agreement: September 10, 2020.

Statement of Answer filed by IFC on or about: September 29, 2020.
IFC signed the Submission Agreement: September 28, 2020.

Statement of Answer filed by Transamerica on or about: November 9, 2020.
Transamerica 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, IFC took no position on Claimant’s expungement request.

In the Statement of Answer, Transamerica took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1594731, 1681030, 1690910, and 1921856 and compensatory damages in the amount of \$1.00.

In the Statement of Answer, IFC objected to Claimant’s request for \$1.00 in compensatory damages and requested that all fees and costs be assessed against Claimant.

In the Statement of Answer, Transamerica objected to Claimant’s request for \$1.00 in compensatory damages and requested that all forum fees be assessed 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 June 18, 2021, Claimant advised that the customers in Occurrence Numbers 1594731, 1681030, and 1921856 were served with the Statement of Claim and notice of the date and time of the expungement hearing. Claimant also advised that the customer in Occurrence Number 1690910 is deceased and filed proof of the probate court case for her estate.

On July 14, 2021, Claimant filed a Stipulation of Partial Dismissal Without Prejudice of his request for expungement of Occurrence Number 1921856. Therefore, the Arbitrator made no determination with respect to Occurrence Number 1921856.

The Arbitrator conducted a recorded, hearing by videoconference on July 15, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

IFC and Transamerica both participated in the expungement hearing and, as stated in the Statements of Answer, took no position on the request for expungement.

The customers in Occurrence Numbers 1594731 and 1681030 did not participate in the expungement hearing. The Arbitrator found that the customer in Occurrence Number 1594731 had notice of the expungement request and hearing and that Claimant made reasonable efforts to provide the customers in Occurrence Number 1681030 with notice of the expungement request.

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 occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Numbers 1594731, 1681030, and 1690910, considered the amount of payment made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to the settlement amounts.

In recommending expungement of Occurrence Numbers 1594731 and 1681030, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony and exhibits.

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:

1. Claimant's request for expungement of Occurrence Number 1690910 from his registration records maintained by the CRD is denied.
2. The Arbitrator recommends the expungement of all references to Occurrence Numbers 1594731 and 1681030 from registration records maintained by the CRD for Claimant Garyn Ian Angel (CRD Number 3172630) with the understanding that, pursuant to Notice to Members 04-16, Claimant Garyn Ian Angel 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 claim, allegation, or information is false.

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

Occurrence Number 1594731

The customer was an experienced investor and CEO of a company. The documents provided to and signed by the customer clearly indicated the customer was capable of understanding the investments and the limited liquidity of the investment. In addition, the investments were suitable at the time they were made, as they were in accordance with the customer's investment objectives of income with moderate risk tolerance and constituted a reasonable percentage of his investment holdings. Most importantly, the recommendation to purchase the investment was made to the customer by a representative of Wells Fargo, not by Claimant.

Occurrence Number 1681030

The uncontroverted testimony of Claimant was that he only executed the trades as requested by the customers' elder law attorney. Claimant also testified that he had no involvement in his father's business of advising clients on how to qualify for Medicaid. Furthermore, the customers failed to disclose significant holdings in government savings bonds, which resulted in the application for Medicaid being 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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as parties, IFC and Transamerica are each 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 @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: January 5, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: July 15, 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

Richard S. Zaifert

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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

Richard S. Zaifert

Richard S. Zaifert
Sole Public Arbitrator

07/30/2021

Signature Date

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July 30, 2021

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