

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
David Dale Donat

Case Number: 20-03174

vs.

Respondent  
LPL Financial LLC

Hearing Site: Rapid City, South Dakota

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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 David Dale Donat (“Claimant”): Stephan Louviere, Esq., Louviere Law Firm, P.A., Pompano Beach, Florida.

For Respondent LPL Financial LLC (“Respondent”): Sara B. Davis, Esq., LPL Financial LLC, Boston, Massachusetts.

**CASE INFORMATION**

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

Statement of Answer filed on or about: November 6, 2020.  
Respondent signed the Submission Agreement: November 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 denied any wrongdoing but did not oppose Claimant’s expungement request.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Occurrence Number 2034357 and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent requested that Claimant's request for compensatory damages in the amount of \$1.00 be denied.

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 February 17, 2021, Claimant advised that the customers in Occurrence Number 2034357 ("Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). Claimant also filed a copy of the FedEx tracking information available online for the Notice.

The Arbitrator conducted a recorded, telephonic hearing on March 9, 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.

The Arbitrator also reviewed the settlement documentation related to Occurrence Number 2034357, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony and Exhibits B, E, H, and I.

### **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 2034357 from registration records maintained by the CRD for Claimant David Dale Donat (CRD Number 2927716) with the understanding that, pursuant to Notice to Members 04-16, Claimant David Dale Donat 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 registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and

The claim, allegation, or information is false.

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

The Customers named only Respondent as a party in their arbitration claim. With regard to the claims of failure to supervise and failure to exercise due diligence, the Arbitrator finds that Claimant was not involved in the alleged actions. Respondent was responsible for supervision and due diligence, and Claimant had no involvement in these activities. The Arbitrator finds that all other allegations by the Customers against Claimant are false. Specifically, Claimant demonstrated through his testimony and exhibits that the purchases of the investments at issue were consistent with the Customers’ objectives, as stated in their account opening documents. Claimant's exhibits also demonstrated that he conducted regular and ongoing meetings with the Customers, in which they had in-depth discussions regarding the nature of the underlying investments and the Customers' ongoing financial objectives and liquidity needs. And, Claimant’s exhibits demonstrated that commissions and fees were properly assessed, pursuant to the terms of the Customers’ various accounts.

### **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 11, 2021	1 session		
One (1) hearing session on expungement request @ \$50.00/session		= \$	50.00
Hearing: March 9, 2021	1 session		
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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**

Peter H. Daly

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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**

***Peter H. Daly***

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Peter H. Daly  
Sole Public Arbitrator

**03/15/2021**

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Signature Date

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March 15, 2021

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