

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Todd Ray Anderson

Case Number: 20-03177

vs.

Respondent
Geneos Wealth Management, Inc.

Hearing Site: Phoenix, Arizona

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 Todd Ray Anderson: Ross J. Kartez, Esq., Brian R. Passarelle, Esq., and David F. Durso, Esq., Ruskin Moscou Faltischek, P.C., Uniondale, New York.

For Respondent Geneos Wealth Management, Inc.: Victoria H. Buter, Esq. and Alison Gutierrez, Esq., Kutak Rock, LLP, Omaha, Nebraska.

CASE INFORMATION

Statement of Claim filed on or about: September 11, 2020.

Todd Ray Anderson signed the Submission Agreement: September 11, 2020.

Statement of Answer filed by Respondent on or about: November 24, 2020.

Geneos Wealth Management, Inc. signed the Submission Agreement: November 20, 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: monetary damages against Respondent in the amount of \$1.00, and expungement of Occurrence Number 1458503 from Claimant's Form U4, Form U5, CRD records, BrokerCheck, and any other database that maintains records of customer complaints.

In the Statement of Answer, Respondent opposed any monetary damages.

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 February 17, 2021 and February 18, 2021, Claimant advised that the customers in Occurrence Number 1458503 ("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 March 16, 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 1458503, 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: information in the Claimant's CRD record, as well as the testimony of Claimant.

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. The Arbitrator recommends the expungement of all references to Occurrence Number 1458503 from registration records maintained by the CRD for Claimant Todd Ray Anderson

(CRD Number 1896352) with the understanding that, pursuant to Notice to Members 04-16, Claimant Todd Ray Anderson 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.

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The claim, allegation, or information is false.

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

The Arbitrator found that the information regarding the terms of the annuity on which the Customers’ complaint was based was not provided by Claimant. Rather, the information was provided by a representative of the annuity issuer, Prudential. Claimant presented evidence that his services were not retained by the Customers because of this information. Ultimately, Prudential refunded the Customers’ purchase funds. Claimant met his burden in proving that the conditions of FINRA Rules 2080(b)(1)(A), (B), and (C) were all satisfied. The Customers did not purchase the annuity because of any representations by the Claimant; Customers purchased it based on representations by the representative of Prudential. (FINRA Rule 2080(b)(1)(A)). Claimant was not involved in any alleged investment-related sales practice violation. (FINRA Rule 2080(b)(1)(B)). In fact, it was Claimant who requested that Prudential’s representative give information to the Customers. Finally, the evidence shows that the allegation and information against Claimant is false. (FINRA Rule 2080(b)(1)(C)). In fact, the evidence shows that the Customers remained clients of Claimant for six years after this matter was settled. This shows that the Customers had confidence in Claimant and his services. Therefore, the Arbitrator recommends expungement of the subject information from Claimant’s Form U4, Form U5, CRD records, BrokerCheck, and any other database that maintains records of customer complaints.

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

**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 event giving rise to the dispute. Accordingly, as a party, Respondent 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: February 2, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session =\$ 50.00
Hearing: March 16, 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

Merton E. Marks

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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

Merton E. Marks

Merton E. Marks
Sole Public Arbitrator

03/18/2021

Signature Date

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March 18, 2021

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