

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

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In the Matter of the Arbitration Between:

Claimant  
Todd Ray Anderson

Case Number: 20-03178

vs.

Respondent  
NYLife Securities, LLC

Hearing Site: Phoenix, Arizona

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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

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 NYLife Securities, LLC: Richard F. Lubarsky, Esq., Lubarsky Law Firm, PLLC, White Plains, New York.

**CASE INFORMATION**

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

Amended Statement of Claim filed on or about: October 28, 2020.

Statement of Answer filed by Respondent on or about: November 13, 2020.  
NYLife Securities LLC signed the Submission Agreement: October 27, 2020.

**CASE SUMMARY**

In the Statement of Claim, as amended, 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 Statement of Claim, as amended, Claimant requested: money damages against Respondent in the amount of \$1.00, and expungement of Occurrence Number 802636 pursuant to Rule 2080, directing the 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.

In the Statement of Answer, Respondent requested that the Arbitrator deny Claimant's request for damages of \$1.00 (or any other amount) against Respondent and that all forum and Arbitrator fees be assessed against Claimant.

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 March 2, 2021, Claimant advised that the customers in Occurrence Number 802636 ("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 April 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, took no position on 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.

Due to the age of the underlying customer dispute, no settlement documentation could be provided, and thus the Arbitrator did not review any settlement documentation related to Occurrence Number 802636. Claimant testified 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. The Arbitrator determined that expungement of this occurrence is warranted, despite being unable to review the settlement documentation.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: documentation submitted, testimony from Claimant and Respondent, evidence that Claimant had no responsibility for communication with the Customers, and evidence that all information relative to the sale of the product and responsibilities were provided to the Customers prior to the sale.

## 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 802636 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 findings based on the following reasons:

Claimant was in a managerial position at the time of this occurrence and was not responsible for direct sales to customers or contact with customers. Specifically, Claimant was not involved with the sale of the product to the Customers. Thus, any claim or allegation against Claimant as to what was or was not represented to the Customers would be false.

Respondent had more than sufficient measures in place to ensure that all provisions regarding the sale and explanation the product were communicated both verbally and in writing to the Customers, and that recognition of this was completed before sale was made.

The Arbitrator finds that Claimant was in no way responsible for the sale of the product to the Customers, Claimant had no contact with the Customers or follow up after the sale, and Claimant was not involved in any of the allegations made in the claim. The claim is also false because there had been communication, both verbal and written, before the sale of the product, as to all provisions of the purchase, and this would attest to the knowledge the Customers must have had prior to purchase.

Therefore, the Arbitrator recommends the expungement of Occurrence Number 802636 from Claimant's record, because all three conditions of Rule 2080(b)(1) have been satisfied.

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
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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 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
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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 with a single Arbitrator @ \$50.00/session	=\$	50.00
Pre-Hearing Conference: January 21, 2021	1 session	

One (1) hearing session on expungement request @ \$50.00/session	=\$	50.00
Hearing: April 16, 2021	1 session	

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Total Hearing Session Fees	=\$	100.00
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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**

Timothy J. Kroll

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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**

***Timothy J. Kroll***

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Timothy J. Kroll  
Sole Public Arbitrator

**04/21/2021**

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Signature Date

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April 21, 2021

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