

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jason Lee Seale

Case Number: 20-03214

vs.

Respondent
American Wealth Management, Inc.

Hearing Site: Atlanta, Georgia

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 Jason Lee Seale (“Claimant”): Zachary Hayes-Macaluso, Esq., FA Expungement, LLC, Denver, Colorado.

For Respondent American Wealth Management, Inc. (“Respondent”): Joel R. Beck, Esq., The Beck Law Firm, LLC, Lawrenceville, Georgia.

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 20, 2020.
Respondent signed the Submission Agreement: December 1, 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 expungement of Occurrence Numbers 1316360,

1479788, and 1619840 and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent requested that the Arbitrator deny Claimant's request for \$1.00 in compensatory damages and 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 March 24, 2021, Claimant advised that the customers in Occurrence Numbers 1316360, 1479788, and 1619840 ("Customers") were served with the Statement of Claim and notices of the date and time of the expungement hearing ("Notices"). On May 31, 2021, Claimant filed correspondence regarding efforts to locate the customer in Occurrence Number 1619840 and provided the USPS tracking information available online for the Notices.

The Arbitrator conducted a recorded, telephonic hearing on June 24, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated 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 in Occurrence Numbers 1316360 and 1479788 had notice of the expungement request and hearing and efforts to provide notice to the customer in Occurrence Number 1619840 were sufficient.

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 noted that he was unable to review the settlement documentation related to Occurrence Numbers 1316360, 1479788, and 1619840 as the parties were unable to locate the documentation after a diligent search. Based on the evidence and testimony provided, the Arbitrator considered the amount of payment made to any party to the settlements. The Arbitrator noted that Claimant paid all of the settlement amounts.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Statement of Claim, Statement of Answer, Notices, and Claimant's BrokerCheck® Report, Pre-Hearing Brief, and testimony.

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 Numbers 1316360, 1479788, and 1619840 from registration records maintained by the CRD for Claimant Jason Lee Seale (CRD Number 1874548) with the understanding that, pursuant to Notice to Members 04-16, Claimant Jason Lee Seale 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:

Occurrence Number 1316360

The customer had an annuity issued by a company in financial trouble. Claimant and the customer spoke many times and reviewed a number of options. They decided to sell the existing annuity and purchase a better-rated annuity that allowed the customer to take annual distributions. The annuity also had tax advantages and a payout each year after 85 years old. Claimant fully explained the new annuity, including the death benefit, with the customer. The customer signed a number of documents for the annuity, indicating that she understood the purchase. There was a 30-day free look period. Three months after the purchase, Claimant learned that the customer's son had filed a complaint. Despite the fact that the customer had agreed to the annuity purchase, fully understood it, and the product was suitable for the customer, the customer sought damages. Claimant hired an attorney to fight the claim, but Respondent wanted to settle. After discussing options with his counsel, Claimant agreed to a settlement to avoid additional costs.

Occurrence Number 1479788

Claimant testified that the customer was an astute investor who had investments and worked with other financial advisors. Her investment objectives were annual growth and lifetime payments. The customer already had an annuity but wanted a new investment. Claimant, after due diligence, picked three options for a new annuity. Claimant explained the annuities, including the surrender charges, to the customer and reviewed the disclosures in great detail with the customer. The customer signed all of the disclosures for the new annuity of her choice and had 30 days to rescind the purchase without cost. After talking to another financial advisor, the customer chose to surrender the annuity without cost. The annuity's issuer agreed but charged back the surrender fee/commission to Claimant. Claimant was not aware of the customer's request nor did he have any input in the issuer's decision. Claimant decided that paying the issuer was cheaper than hiring an attorney to fight the issuer.

Occurrence Number 1619840

The customer and Claimant spoke two to four times a week and met twice a month to discuss his investment portfolio. The customer was a very experienced investor with a non-discretionary account. He suggested purchasing Facebook, Inc. stock. Claimant did due diligence and determined that the purchase met the customer's objectives and risk tolerance. The customer authorized the stock purchase and only complained when the stock price went down (although the stock price did recover significantly). Respondent and Claimant settled with the customer after determining that settling was less expensive than fighting the customer's allegation.

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 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 @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: January 22, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: June 24, 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

Michael J. Ahlstrom

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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

Michael J. Ahlstrom

Michael J. Ahlstrom
Sole Public Arbitrator

07/08/2021

Signature Date

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July 08, 2021

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