

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

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In the Matter of the Arbitration Between:

Claimant

Gerald James O'Halloran

Case Number: 20-03222

vs.

Respondent

Edward D. Jones & Co., L.P. n/k/a Edward Jones

Hearing Site: Tampa, Florida

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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

The evidentiary hearing was conducted in part by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Gerald J. O'Halloran ("Claimant"): Jennifer P. Farrar, Esq., Farrar Law, PLLC, Tomball, Texas.

For Respondent Edward D. Jones & Co., L.P. n/k/a Edward Jones ("Respondent"): Jonathan W. Hackbarth, Esq., Quarles & Brady LLP, Milwaukee, Wisconsin.

**CASE INFORMATION**

Statement of Claim filed on or about: September 24, 2020.  
Amended Statement of Claim filed on or about: May 21, 2021.  
Claimant signed the Submission Agreement: September 15, 2020.

Statement of Answer filed on or about: November 13, 2020.  
Statement of Answer to Amended Statement of Claim filed on or about: May 25, 2021.  
Respondent signed the Submission Agreement: October 13, 2020.

**CASE SUMMARY**

In the Amended 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 to Amended Statement of Claim, Respondent denied any wrongdoing but did not oppose Claimant's expungement request.

### **RELIEF REQUESTED**

In the Amended Statement of Claim, Claimant requested expungement of Occurrence Numbers 302681, 302684, and 311758; compensatory damages in the amount of \$1.00; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer to Amended Statement of Claim, Respondent opposed any request for 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 May 18, 2021, Claimant advised that the customer in Occurrence Number 302681 ("Customer A") was served with the Statement of Claim and notice of the date and time of the first expungement hearing ("Notice"). Claimant also filed a copy of the FedEx proof-of-delivery for the Notice.

The Arbitrator conducted a recorded hearing by videoconference on May 21, 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.

Customer A did not participate in the expungement hearing. The Arbitrator found that Customer A had notice of the expungement request and hearing.

On the record at the hearing, Claimant made moved for leave to amend the Statement of Claim ("Motion for Leave"). The Arbitrator granted the Motion for Leave. On the same day, Claimant filed an Unopposed Motion to Amend the Statement of Claim ("Motion to Amend"). In an Order dated May 24, 2021, the Arbitrator granted the Motion to Amend.

Also on May 21, 2021, Claimant advised that the customer in Occurrence Number 302684 ("Customer B") was deceased and filed a copy of Customer B's obituary.

On June 25, 2021, Claimant advised that the customer in Occurrence Number 311758 ("Customer C") was served with the Amended Statement of Claim and notice of the date and time of the second expungement hearing ("Second Notice"). Claimant also filed a copy of the FedEx proof-of-delivery for the Second Notice.

The Arbitrator conducted a recorded, telephonic hearing on June 30, 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 to Amended Statement of Claim, did not oppose the request for expungement.

Customers A and C did not participate in the expungement hearing. The Arbitrator found that Customers A and C 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 noted that the disputes related to Occurrence Numbers 302681, 302684, and 311758 were not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony and exhibits, including Claimant's BrokerCheck® Report.

### **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 Numbers 302681, 302684, and 311758 from registration records maintained by the CRD for Gerald James O'Halloran (CRD Number 1056697) with the understanding that, pursuant to Notice to Members 04-16, Gerald James O'Halloran 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.

#### **Occurrence Number 302681**

Pursuant to Rule 13805 of the Code of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative finding of fact:

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

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

I find that the delays in the account transfer were the result of administrative issues, which were not within Claimant's control. In fact, there were no sales practice violations.

#### **Occurrence Number 302684**

Pursuant to Rule 13805 of the 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:

The evidence showed that there were no transfer fees. The amounts which the customer complained about were tax withholdings. Further, Customer B received trade confirmations but did not object to any transactions until months later, when a market correction occurred. I conclude the customer did know of the purchases and consented.

**Occurrence Number 311758**

Pursuant to Rule 13805 of the 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:

Customer C lived in France six months out of the year; however, Claimant testified that all trades were discussed with Customer C before execution and that there was a substantial gain in the account's value during the relevant time period. At worst, it appears there was a miscommunication between Claimant and Customer B as a result of Customer C's indefinite plans regarding funding for remodeling.

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(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
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**Postponement Fees**

Postponements granted during these proceedings for which fees were assessed or waived:

March 5, 2021, postponement requested by Claimant	= \$	50.00
April 30, 2021, postponement requested by Claimant	= \$	50.00

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Total Postponement Fees	= \$	100.00
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The Arbitrator has assessed the total postponement fees to Claimant.

**Last-Minute Cancellation Fees**

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

Fees apply when a hearing on the merits is cancelled within three business days before the start of a scheduled hearing session:

March 5, 2021, cancellation requested by Claimant	= \$	600.00
April 30, 2021, cancellation requested by Claimant	= \$	600.00
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Total Last-Minute Cancellation Fees	= \$	1,200.00

The Arbitrator has assessed the total last-minute cancellation fees to Claimant.

**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 14, 2021	1 session	
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Two (2) hearing sessions on expungement request @ \$50.00/session	= \$	100.00
Hearings: May 21, 2021	1 session	
June 30, 2021	1 session	
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Total Hearing Session Fees	= \$	150.00

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**

Langfred W. White

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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**

***Langfred W. White***

Langfred W. White  
Sole Public Arbitrator

**07/27/2021**

Signature Date

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.

July 27, 2021

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