

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Stephen Wayne Wingard

Case Number: 20-03241

vs.

Respondent
MML Investors Services, LLC

Hearing Site: Dallas, Texas

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 Stephen Wayne Wingard (“Claimant”): Stephan Louviere, Esq., Louviere Law Firm, P.A., Pompano Beach, Florida.

For Respondent MML Investors Services, LLC (“Respondent”): Julie E. Ravis, Esq. and William P. Thornton, Jr., Esq., Stevens & Lee, Reading, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on or about: September 12, 2020.
Claimant signed the Submission Agreement: September 11, 2020.

Statement of Answer filed on or about: November 3, 2020.
Respondent signed the Submission Agreement: November 4, 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 took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1888219 and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent opposed Claimant's request for \$1.00 in compensatory damages and requested that all forum fees and costs associated with this proceeding 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 February 23, 2021, Claimant advised that the customer in Occurrence Number 1888219 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). Claimant filed a copy of the FedEx tracking information available online for the Notice.

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, took no position on the request for expungement.

The Customer did not participate in the expungement hearing. The Arbitrator found that the Customer 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 1888219, 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: the pleadings, Claimant's Memorandum of Law in Support of Expungement, and Claimant's 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 Number 1888219 from registration records maintained by the CRD for Claimant Stephen Wayne Wingard (CRD Number 2746603) with the understanding that, pursuant to Notice to Members 04-16, Claimant Stephen Wayne Wingard 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 finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

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

The Customer had a high net worth. He and Claimant worked closely together during their 12-year business relationship. Claimant described the Customer as not only knowledgeable regarding investing but painstakingly deliberate in all that he did regarding his investments.

The Customer wanted to make additional investments in products that didn’t correlate with stocks and bonds. The Customer agreed with Claimant’s recommendation to invest in a real estate investment trust (“REIT”). The Customer signed documents, which, in part, stated that the investment was volatile, illiquid, and risky. Also, Respondent signed off on the suitability of the investment. The first REIT did well, and the Customer chose to invest additional funds in two other REITs.

At the time the Customer wrote the complaint letter to Respondent, he still owned all three REITs—two were making money but one was not. The Customer’s complaint only referenced the one that was losing money, yet, all three investments were the same kind of REIT.

A preponderance of the evidence presented by Claimant at the hearing demonstrates that the Customer was fully informed about the risks of investing in a REIT that was not liquid and could be volatile. The investment was suitable for the Customer, based on his risk profile and his interest in a variety of investments.

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

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 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

C. Sumpter Logan

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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

C. Sumpter Logan

C. Sumpter Logan
Sole Public Arbitrator

03/23/2021

Signature Date

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March 23, 2021

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