

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Larry J. Buckner
Joan M. Crisp

Case Number: 20-03294

vs.

Respondent

David John Meyer

Hearing Site: Nashville, Tennessee

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: Customers vs. Associated Person

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

Claimant Larry J. Buckner appeared pro se.

Claimant Joan M. Crisp appeared pro se.

For Respondent David John Meyer: Michael Naccarato, Esq., Wells Fargo Legal Department, St. Louis, Missouri.

CASE INFORMATION

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

Larry J. Buckner signed but did not date the Submission Agreement.

Joan M. Crisp signed the Submission Agreement: September 27, 2020.

Statement of Answer filed by Respondent on or about: November 20, 2020.

David John Meyer signed the Submission Agreement: November 4, 2020.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: breach of contract and omissions. The causes of action relate to Claimants' purchase of a MetLife annuity.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested: what was promised under the contract, as well as monetary damages in an unspecified amount.

In the Statement of Answer, Respondent requested: the Statement of Claim be dismissed in its entirety with prejudice; costs and expenses of this arbitration; such other further relief as is just and proper; and expungement of all references to this arbitration from Respondent's CRD record.

Respondent filed a request for expungement of all references to this matter from Central Registration Depository ("CRD") registration records. Please see the Other Issues Considered and Decided section of this Award for more information.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On January 28, 2021, Claimants filed a notice of voluntary dismissal with prejudice. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On February 19, 2021, Respondent filed a Motion for Expungement, to which no response was filed.

The Panel conducted a recorded, telephonic hearing on April 1, 2021, so the parties could present oral argument and evidence on Respondent David John Meyer's request for expungement.

Claimants did not participate in the expungement hearing. The Panel found that the Claimants had notice of the expungement request and hearing.

The Panel reviewed Respondent David John Meyer's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Respondent's BrokerCheck Report, numerous notations of conversations and visits between Claimants and Respondent, and testimony given by Respondent.

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues

submitted for determination as follows:

1. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2093071) from registration records maintained by the CRD for Respondent David John Meyer (CRD Number 4490730) with the understanding that, pursuant to Notice to Members 04-16, Respondent David John Meyer 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 12805 of the Code of Arbitration Procedure ("Code"), the Panel has made the following Rule 2080 affirmative finding of fact:

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

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

Claimants purchased annuity funds from MetLife (later transitioning to Brighthouse Financial) through Respondent, a financial consultant. According to the pleadings, Respondent contacted MetLife and was advised by MetLife that, considering the amount to be invested, the purchaser would receive a guaranteed stated monthly amount regardless of how the account performed. Respondent passed this information on to Claimants, who purchased the subject annuities. This information proved to be incorrect, resulting in Claimants eventually receiving less than the guaranteed monthly payments.

Claimants then initiated this arbitration action against Respondent, claiming, in essence, that Respondent caused Claimants' financial loss by incorrectly stating that the promised monthly payments would remain constant. Claimants later withdrew the arbitration action and Respondent filed a Motion for Expungement.

In reaching the conclusion to recommend expungement, the Panel gave weight to the fact that Respondent obtained and transmitted the information he obtained from the annuity issuer to Claimants, and not from his personal knowledge or opinion. The Panel also considered the fact that Respondent continually tried to work with Claimants in an attempt to improve the situation. Additionally, the Panel considered that Claimants withdrew their claim prior to presenting any evidence at the final hearing.

After studying the pleadings, reviewing the evidence, and listening to Respondent's testimony, the Panel unanimously agreed that the claim was factually impossible or clearly erroneous. Therefore, the Panel finds that Rule 2080(b)(1)(A) has been satisfied, and thus the Panel recommends expungement of Occurrence Number 2093071 from Respondent's record.

2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, are denied.

ARBITRATION PANEL

Robert G. Bannon	-	Public Arbitrator, Presiding Chairperson
Eric Matthew Bittner	-	Public Arbitrator
Joseph Charles Smolira	-	Non-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.

Concurring Arbitrators' Signatures

Robert G. Bannon

Robert G. Bannon
Public Arbitrator, Presiding Chairperson

04/06/2021

Signature Date

Eric Matthew Bittner

Eric Matthew Bittner
Public Arbitrator

04/07/2021

Signature Date

Joseph Charles Smolira

Joseph Charles Smolira
Non-Public Arbitrator

04/07/2021

Signature Date

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April 07, 2021

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