

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Sandra Jean Rose

Case Number: 20-03693

vs.

Respondent
TIAA-CREF Individual & Institutional Services, LLC

Hearing Site: New York, New York

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 Sandra Jean Rose: Dochter Kennedy, MBA, J.D. and Ben Winograd, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent TIAA-CREF Individual & Institutional Services, LLC: Patrick J. Lamparello, Esq., Proskauer Rose LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: October 30, 2020.

Sandra Jean Rose signed the Submission Agreement: October 30, 2020.

Statement of Answer filed by Respondent on or about: January 29, 2021.

TIAA-CREF Individual & Institutional Services, LLC signed the Submission Agreement:

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of Form U5 termination entry based on the defamatory nature of the entry in Claimant's Central Registration Depository ("CRD") records.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested an award granting expungement of Respondent's amendments to her Form U5, and those relevant portions of the Form U4, from Claimant's CRD record on the basis that the statement is defamatory in nature, misleading, inaccurate, and/or erroneous, to include: amendment of the Reason for Termination entry in Section 3 of Claimant's Form U5 to read "Voluntary"; expungement of the Reason for Termination explanation on Claimant's CRD; amendment of any "Yes" answers on Claimant's Form U5 that correspond with Respondent's Form U5 filing, from "Yes" responses to "No"; and deletion of all Internal Review and Termination Disclosure Reporting Pages corresponding with Respondent's Form U5 filing; an award of damages in the amount of \$1.00 from Respondent for its part in contributing to Claimant's injury; and any other relief as the arbitration Panel deems just and equitable.

In the Statement of Answer, Respondent requested that the Statement of Claim be denied in its entirety.

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.

Respondent did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and, having answered the claim, appeared at the hearing, is bound by the determination of the Arbitrator on all issues submitted.

On September 20, 2021, the parties entered a Stipulated Agreement regarding the award in this matter.

AWARD

After considering the pleadings, the testimony and evidence presented at the 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 expungement of the Reason for Termination and Termination Explanation in Section 3 of Sandra Jean Rose's (CRD Number 2185124) Form U5 filed by TIAA-CREF Individual & Institutional Services, LLC (CRD Number 20472) on January 7, 2015 and maintained by the Central Registration Depository ("CRD"). The Reason for Termination shall be changed to "Voluntary" and the Termination Explanation should be deleted in its entirety and shall appear blank. This directive shall apply to all references to the Reason for Termination and Termination Explanation.

Pursuant to Notice to Members 99-54, this is not a finding that Claimant has established a claim for defamation under governing law. TIAA-CREF contends that it has committed no wrongdoing with respect to Claimant and the Arbitrator has found that TIAA-CREF has not committed any wrongdoing.

The above recommendations are made with the understanding that the registration records are not automatically amended. Sandra Jean Rose must obtain confirmation of this Award from a court of competent jurisdiction, before the CRD will execute the expungement directive, and must forward a copy of the Court Order to FINRA’s Credentialing, Registration, Education and Disclosure Department for the amendments to be incorporated into the Registration Records.

2. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code of Arbitration Procedure (“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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent TIAA-CREF Individual & Institutional Services, LLC is assessed the following:

Member Surcharge = \$ 150.00

Postponement Fees

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

August 18, 2021, postponement requested by Claimant WAIVED

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:

Two (2) pre-hearing sessions with a single Arbitrator @ \$50.00/session = \$ 100.00
Pre-Hearing Conference: March 3, 2021 1 session
July 16, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: September 29, 2021 1 session

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

Karen Isabel Bedrosian -
Richardson

-

Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Arbitrator's Signature

Karen Isabel Bedrosian - Richardson

Karen Isabel Bedrosian - Richardson
Sole Public Arbitrator

10/13/2021

Signature Date

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October 14, 2021

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