

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Thomas A. Seiler

Case Number: 21-00357

vs.

Respondent
Merrill Lynch, Pierce, Fenner & Smith Inc.

Hearing Site: Philadelphia, Pennsylvania

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 by videoconference.

REPRESENTATION OF PARTIES

For Claimant Thomas A. Seiler: Benjamin J. Biard, Esq., and Zachary S. Knoblock, Esq., Winget, Spadafora & Schwartzberg, LLP, Miami, Florida.

For Respondent Merrill Lynch, Pierce, Fenner & Smith Inc.: Laura A. Pizzitola, Esq., Bressler, Amery & Ross, P.C., Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: February 9, 2021.
Thomas A. Seiler signed the Submission Agreement: February 9, 2021.

Statement of Answer filed by Respondent on or about: April 16, 2021.
Merrill Lynch, Pierce, Fenner & Smith Inc. signed the Submission Agreement: April 16, 2021.

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 1389198; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Panel deemed just and equitable.

In the Statement of Answer, Respondent objected to Claimant's request for \$1.00 in compensatory damages.

At the hearing, Claimant withdrew the request for \$1.00 in damages.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge having read the pleadings and other materials filed by the parties.

On August 5, 2021, Claimant advised that the customer in Occurrence Number 1389198 was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Panel conducted a recorded hearing by videoconference on November 10, 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 regarding the request for expungement.

On August 3, 2021, the customer filed a written statement opposing Claimant's request for expungement. The customer did not participate in the expungement hearing. The Panel found that the customer had notice of the expungement request and hearing.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any post-hearing submissions, the Arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's request for expungement of Occurrence Number 1389198 from his registration records maintained by the CRD is denied.
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:

Expungement Filing Fee	= \$ 1,575.00
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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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent Merrill Lynch, Pierce, Fenner & Smith Inc. is assessed the following:

Member Surcharge	= \$	1,900.00
Member Process Fee	= \$	3,750.00

Postponement Fees

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

September 3, 2021, postponement requested by Claimant	= \$	1,125.00
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Total Postponement Fees	= \$	1,125.00

The Panel has assessed the total postponement fees to Claimant.

Last-Minute Cancellation Fees

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

September 3, 2021, cancellation requested by Claimant	= \$	1,800.00
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Total Last-Minute Cancellation Fees	= \$	1,800.00

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

Hearing Session Fees and Assessments

The arbitrators have assessed hearing session fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ \$1,125.00/session	= \$	1,125.00
Pre-Hearing Conference: June 9, 2021	1 session	
One (1) hearing session on expungement request @ \$1,125.00/session	= \$	1,125.00
Hearing: November 10, 2021	1 session	
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Total Hearing Session Fees	= \$	2,250.00

The Panel has assessed the total hearing session fees to Claimant.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATION PANEL

Lorrie E Whitfield	-	Public Arbitrator, Presiding Chairperson
Frank P. Santangelo	-	Public Arbitrator
Robert C. Scanlan	-	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

Lorrie E Whitfield

Lorrie E Whitfield
Public Arbitrator, Presiding Chairperson

11/30/2021

Signature Date

Frank P. Santangelo

Frank P. Santangelo
Public Arbitrator

12/01/2021

Signature Date

Robert C. Scanlan

Robert C. Scanlan
Non-Public Arbitrator

12/01/2021

Signature Date

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December 01, 2021

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