

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Kenneth Leroy Bowers

Case Number: 21-00826

vs.

Respondent
The Prudential Insurance Company of America

Hearing Site: Albuquerque, New Mexico

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 Kenneth Leroy Bowers (“Claimant”): Dochter Kennedy, MBA, J.D. and Samantha Pastor, J.D., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent The Prudential Insurance Company of America (“Respondent”): Jennifer E. Novoselsky, Esq., Reyes Kurson, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: March 29, 2021.
Claimant signed the Submission Agreement: March 29, 2021.

Statement of Answer filed by Respondent on or about: June 9, 2021.
Respondent signed the Submission Agreement: April 9, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of his Form U5 and alleged that the Form U5, as part of registration records maintained by the Central Registration Depository (“CRD”), is defamatory in nature.

In the Statement of Answer, Respondent took no position on the request for expungement; however, Respondent objected to the request to expunge on the basis that the information in Claimant’s Form U5 is “defamatory” and to the request for any monetary damages.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. An award granting expungement of the Form U5 corresponding with Occurrence Number 65869, and those relevant portions of the Form U4, from Claimant's CRD records on the basis that the statement is defamatory in nature and tends to mislead, to include:
 - a. amendment of the Reason for Termination entry in Section 3 of Claimant's Form U5 to read "Voluntary";
 - b. expungement of the Reason for Termination explanation on Claimant's CRD records;
 - c. amendment of the answer to question 14J(1) on Claimant's Form U5, from a "Yes" response to "No"; and
 - d. deletion of the Termination Disclosure Reporting pages accompanying Occurrence Number 65869;
2. An award of damages in the amount of \$1.00 from Respondent; and
3. Any other relief as the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not set forth a specific relief request.

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.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, 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 Number 65869 from the registration records maintained by the CRD for Kenneth Leroy Bowers (CRD Number 1510064). Any "Yes" answers should be changed to "No," as applicable.

The Arbitrator recommends expungement based on the defamatory nature of the information. The above recommendations are made with the understanding that the registration records are not automatically amended. Kenneth Leroy Bowers must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure Department for review.

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(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

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 with a single Arbitrator @ \$50.00/session = \$ 50.00
Pre-Hearing Conference: July 19, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: November 10, 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

Laurel Littman Gothelf

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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

Laurel Littman Gothelf

Laurel Littman Gothelf
Sole Public Arbitrator

11/18/2021

Signature Date

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November 22, 2021

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