

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Ronald L. Carson, Jr.

Case Number: 21-01012

vs.

Respondent
Cetera Advisor Networks, LLC

Hearing Site: Omaha, Nebraska

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 Ronald L. Carson, Jr. (“Claimant”): Stephan Louviere, Esq., Louviere Law Firm, P.A., Pompano Beach, Florida.

For Respondent Cetera Advisor Networks, LLC (“Respondent”): David Feldstein, Esq., Cetera Financial Group, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: April 16, 2021.
Claimant signed the Submission Agreement: April 15, 2021.

Statement of Answer filed on or about: May 5, 2021.
Respondent signed the Submission Agreement: May 3, 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 did not oppose the expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 2014377 and \$1.00 in compensatory damages.

In the Statement of Answer, Respondent requested that Claimant's request for \$1.00 in compensatory damages be denied and that all forum costs and fees be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On May 5, 2021, the parties agreed to the appointment of a single arbitrator in this matter.

On September 1, 2021, Claimant advised that the customer in Occurrence Number 2014377 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice").

On October 14, 2021, the Customer submitted a letter and an Affidavit including exhibits responsive to the Statement of Claim and alleging that the Statement of Claim contains significant misstatements of fact and omissions.

The Arbitrator conducted a recorded, telephonic hearing on October 20, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing.

The Customer, through counsel, participated in the expungement hearing and did not oppose the expungement request.

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 2014377, 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: Claimant's Statement of Claim and exhibits; Claimant's testimony; Claimant's Memorandum of Law in Support of Expungement, the Customer's Affidavit and exhibits; the Customer's and Respondent's non-opposition to Claimant's expungement request.

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:

1. The Arbitrator recommends the expungement of all references to Occurrence Number 2014377 from registration records maintained by the CRD for Claimant Ronald Lloyd Carson, Jr. (CRD Number 1238219) with the understanding that, pursuant to Notice to Members 04-16, Claimant Ronald Lloyd Carson, Jr. 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 findings of fact:

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

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and

The claim, allegation, or information is false.

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

The Customer’s claims and allegations are clearly erroneous. The claims and allegations made against Claimant regarding solicitation of the investment being improper and entailing improper conduct are false. The claims and allegations made against Claimant regarding the impropriety of his notifying the third-party manager (“TPM”) are both false and erroneous. The evidence indicates that Claimant correctly perceived the Broker-Client relationship had, in fact, terminated. The evidence also indicates that Claimant acted in accordance with his obligation to inform the TPM advisor that the Customer had ceased to be Claimant’s client. This resulted in the Customer no longer being eligible for the discounted fee and enhanced payouts granted through the investment agreement. Pursuant to a provision contained in the investment agreements, an investor had to maintain a client relationship with Claimant’s advisory firm to achieve certain benefits. The Arbitrator finds that any claim that Claimant engaged in improper sales practices was conclusionary and factually unsupported. Based on Claimant’s Memorandum of Law in Support of Expungement and Claimant’s testimony, the core of the dispute, handled in another forum, was between the TPM and the Customer with the Claimant being brought in because he properly informed the TPM that the Customer was no longer entitled to the discount it had been receiving under the terms of the contract between the TPM and the Customer. The TPM paid nearly the entire settlement to the Customer. Claimant testified that his firm paid a de minimis amount in attorneys’ fees and costs which was motivated by his commercial and business interests.

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:

Initial Claim Filing Fee = \$ 1,575.00

**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 = \$ 1,900.00

Member Process Fee = \$ 3,750.00

Postponement Fees

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

September 21, 2021, postponement requested by the Customer = \$ 1,125.00

Total Postponement Fees = \$ 1,125.00

The Arbitrator has assessed the total postponement fees to Claimant.

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 @ \$1,125.00/session = \$ 1,125.00

Pre-Hearing Conference: July 27, 2021 1 session

One (1) hearing session on expungement request @ \$1,125.00/session = \$ 1,125.00

Hearing: October 20, 2021 1 session

Total Hearing Session Fees = \$ 2,250.00

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

Mark L. Miller

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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

Mark L Miller

Mark L. Miller
Sole Public Arbitrator

11/16/2021

Signature Date

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November 16, 2021

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