

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
James Hydrick Garner

Case Number: 21-01025

vs.

Respondent  
Raymond James & Associates, Inc.

Hearing Site: Little Rock, Arkansas

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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 James Hydrick Garner (“Claimant”): Bryan Ward, Esq. and Marvin Lim, Esq., Holcomb + Ward, LLP, Atlanta, Georgia.

For Respondent Raymond James & Associates, Inc. (“Respondent”): Robert M. Rudnicki, Esq., Raymond James & Associates, Inc., St. Petersburg, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: April 22, 2021.  
Claimant signed the Submission Agreement: April 19, 2021.

Statement of Answer filed on or about: April 28, 2021.  
Respondent signed the Submission Agreement: April 28, 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 Claimant’s expungement request.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Occurrence Number 2076916.

In the Statement of Answer, Respondent requested that all fees be assessed against Claimant.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On July 15, 2021, Claimant advised that the customer in Occurrence Number 2076916 (“Customer”) was served with the Statement of Claim and notice of the date and time of the expungement hearing (“Notice”).

On July 28, 2021, Claimant submitted a Declaration from the Customer supporting Claimant’s request for expungement (“Customer Declaration”).

The Panel conducted a recorded, telephonic hearing on August 5, 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 did not participate in the expungement hearing. The Panel found that the Customer had notice of the expungement request and hearing.

The Panel reviewed Claimant’s BrokerCheck® Report. The Panel noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrence in the CRD.

The Panel also reviewed the settlement documentation related to Occurrence Number 2076916, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel 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 Panel relied upon the following documentary or other evidence: Claimant’s testimony, Claimant’s BrokerCheck® Report, Statement of Answer, Notice, Claimant’s hearing exhibits, including Customer Declaration.

### **AWARD**

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

The Panel recommends the expungement of all references to Occurrence Number 2076916 from registration records maintained by the CRD for Claimant James Hydrick Garner (CRD Number 1497791) with the understanding that, pursuant to Notice to Members 04-16, Claimant James Hydrick Garner 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 Panel 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 Panel has made the above Rule 2080 findings based on the following reasons:

The testimony, along with documents admitted into evidence, provided clear and convincing evidence that Claimant did not participate in the forced and unauthorized sale of the Customer’s stock. The evidence established that the sale of such stock was effectuated by the Customer Accounts Department of Respondent’s banking affiliate without the knowledge or participation of Claimant. It was clearly erroneous that Claimant engaged in conduct inimical or prejudicial to his client’s interest or that the Claimant engaged in a market sales violation through the sale of such stock, and therefore, the allegation that Claimant engaged in that conduct was false. The Panel also concluded that Claimant did not participate in the unauthorized trade claim asserted by the Customer.

### **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	= \$	1,600.00
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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(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	= \$	2,000.00
Member Process Fee	= \$	3,850.00

#### **Hearing Session Fees and Assessments**

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

One (1) pre-hearing session @ \$1,150.00/session	= \$	1,150.00
Pre-Hearing Conference: July 12, 2021	1 session	

One (1) hearing session on expungement request @ \$1,150.00/session	= \$	1,150.00
Hearing: August 5, 2021 1 session		
<hr/> Total Hearing Session Fees	= \$	2,300.00

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**

Maryanne M. Esser	-	Public Arbitrator, Presiding Chairperson
Allan R. Lazor	-	Public Arbitrator
Paul M. Foster	-	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**

***Maryanne M. Esser***

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Maryanne M. Esser  
Public Arbitrator, Presiding Chairperson

**08/09/2021**

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Signature Date

***Allan R. Lazor***

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Allan R. Lazor  
Public Arbitrator

**08/09/2021**

\_\_\_\_\_  
Signature Date

***Paul M. Foster***

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Paul M. Foster  
Non-Public Arbitrator

**08/09/2021**

\_\_\_\_\_  
Signature Date

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August 09, 2021

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