

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Adam Patrick Clyne

Case Number: 21-01241

vs.

Respondent
Legend Equities Corporation

Hearing Site: St. Louis, Missouri

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 Adam Patrick Clyne (“Claimant”): Doctor Kennedy, Esq. and Benjamin Winograd, Esq., AdvisorLaw LLC, Westminster, Colorado.

For Lincoln Investment Planning, LLC on behalf of Respondent Legend Equities Corporation (“Respondent”): Jessica Levine, Esq. and Steven Davis, Esq., Winget, Spadafora & Schwartzberg, LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: May 12, 2021.
Claimant signed the Submission Agreement: May 11, 2021.

Statement of Answer filed on or about: July 16, 2021.
Respondent signed the Submission Agreement: July 21, 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 request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1736154 and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested 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 June 10, 2021, Claimant and Respondent stipulated that a single arbitrator be appointed in this matter pursuant to Rule 13401(c) of the Code of Arbitration Procedure (“Code”).

On December 9, 2021, Claimant advised that the one of the customers in Occurrence Number 1736154 (“Customer”) was served with the Statement of Claim and notice of the date and time of the expungement hearing (“Notice”). Claimant also filed a Death Record and obituary for the other customer in Occurrence Number 1736154. On December 13, 2021, Claimant filed an Affidavit confirming that the Customer was served with the Notice. Claimant also filed a copy of the FedEx tracking information available online for the Notice.

The Arbitrator conducted a recorded, telephonic hearing on January 13, 2022, 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, did not oppose the request for expungement.

The Customer did not participate in the expungement hearing. The Arbitrator found that the Customer had notice of the expungement request and hearing.

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 noted that there was no written settlement documentation related to Occurrence Number 1736154. The Arbitrator considered the amount of payment made to any party to the settlement and 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 contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant’s testimony and exhibits, Statement of Claim, and Respondent’s non-opposition to 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 partial expungement of all references to Occurrence Number 1736154 from registration records maintained by the CRD for Claimant Adam Patrick Clyne (CRD Number 4990574) with the understanding that, pursuant to Notice to Members 04-16,

Claimant Adam Patrick Clyne must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

The Arbitrator recommends modifying the allegations stated in Item 4 under Occurrence Number 1736154 on Claimant Adam Patrick Clyne's CRD.

The Arbitrator recommends that Item 4 be modified to the following language: "Customer worked with AP to adjust the family wealth and financial planning format after the death of a family member. It was a multi-step plan which was incomplete at the time of the unexpected death of the other account holder. Notwithstanding AP's efforts to complete the original plan, the Customer did not act timely resulting in probate expenses. The Firm voluntarily reimbursed customer for the cost of her failure to complete the agreed upon financial plan and AP reimbursed the Firm."

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, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

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

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

The claim is erroneous in that it makes no legal sense based upon the facts as testified to during the hearing regarding the status of the accounts in trust, and the long range strategic financial plan the parties were adopting with Claimant's assistance.

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 = \$ 1,600.00

**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 = \$ 2,000.00
Member Process Fee = \$ 3,850.00

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:

Two (2) pre-hearing sessions @ \$1,150.00/session		= \$ 2,300.00
Pre-Hearing Conferences: September 2, 2021	1 session	
October 25, 2021	1 session	
One (1) hearing session on expungement request @ \$1,150.00/session		= \$ 1,150.00
Hearing: January 13, 2022	1 session	
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Total Hearing Session Fees		= \$ 3,450.00

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

Tracy L. Allen

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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

Tracy L. Allen

Tracy L. Allen
Sole Public Arbitrator

02/04/2022

Signature Date

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February 04, 2022

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