

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Don Wesley Salter

Case Number: 21-01304

vs.

Respondent
LPL Financial LLC

Hearing Site: New Orleans, Louisiana

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 Don Wesley Salter: Chelsea Masters, Esq. and Dochter Kennedy, MBA, J.D., Advisor Law, LLC, Westminster, Colorado.

For Respondent LPL Financial LLC: Matthew Bohenek, Esq., LPL Financial LLC, Boston, Massachusetts.

CASE INFORMATION

Statement of Claim filed on or about: May 19, 2021.

Don Wesley Salter signed the Submission Agreement: May 18, 2021.

Statement of Answer filed by Respondent on or about: July 22, 2021.

LPL Financial LLC signed the Submission Agreement: July 22, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of information from his Form U5 registration records maintained by the Central Registration Depository (“CRD”).

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: the amendment of the Reason for Termination entry in Section 3 of Claimant's Form U5 to read "Voluntary;" expungement of the Reason for Termination explanation on Claimant's CRD; amendment of the answer to question 7F(1) on Claimant's Form U5, from a "Yes" response to "No;" the deletion of the Termination Disclosure Reporting Pages accompanying Occurrence number 1987851; an award of damages in the amount of \$1.00 from Respondent; and any other relief as the Arbitrator deemed just and equitable.

In the Statement of Answer, Respondent requested: the dismissal of any and all allegations of wrongdoing against Respondent; the denial of any and all demands and requests for damages, costs, and/or fees against Respondent; the allocation of all arbitration costs and expenses against Claimant; and such other relief as the Arbitrator deemed appropriate.

At the hearing, Claimant withdrew his 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.

The Arbitrator reviewed Claimant's BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

The Arbitrator has provided an explanation of the decision in this Award. The explanation is for the information of the parties only and is not precedential in nature.

AWARD

After considering the pleadings, the testimony and evidence presented at the 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 the Termination Explanation in Section 3 of Don Wesley Salter's (CRD Number 2218601) Form U5 filed by Respondent LPL Financial LLC (CRD Number 6413) on July 30, 2018 and maintained by the CRD. The Reason for Termination shall remain the same. The Termination Explanation should appear as, "Allegation of violation of firm's document signature policy." This directive shall apply to all references to the Termination Explanation.

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. Claimant Don Wesley Salter must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure Department for review.

The Arbitrator has made the above affirmative finding regarding the defamatory nature of the information contained in Claimant's Form U5 based on the following reasons:

The original Termination Explanation states that Mr. Salter is in violation of the Firm's document signature policy. This statement is defamatory since Mr. Salter denies the allegation and LPL Financial LLC did not amass the evidence necessary to prove whether or not it was a true statement. The bare statement that Mr. Salter violated the document signature policy is unproven and damages Mr. Salter's professional reputation and adversely affects his ability to earn a living. The evidence presented at the hearing showed that the true statement is that there was an unproven allegation that Mr. Salter violated LPL Financial LLC's document signature policy. The U5 should be changed to reflect that. No customer was damaged or suffered a loss.

2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, 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 LPL Financial LLC 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: September 20, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: January 25, 2022 1 session

Total Hearing Session Fees = \$ 100.00

The Arbitrator has assessed \$50.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$50.00 of the hearing session fees to Respondent.

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

ARBITRATOR

Sally G. Williams

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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

Sally G. Williams

Sally G. Williams
Sole Public Arbitrator

02/11/2022

Signature Date

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February 11, 2022

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