

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

James Lowry McCoy
Joshua Lee McCoy

Case Number: 21-01382

vs.

Respondent

Ameriprise Financial Services, Inc.

Hearing Site: Los Angeles, California

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 Persons vs. Member

REPRESENTATION OF PARTIES

For Claimants James Lowry McCoy and Joshua Lee McCoy: Zachary Morse, Esq., HLBS Law, Westminster, Colorado.

Hereinafter, James Lowry McCoy and Joshua Lee McCoy are collectively referred to as “Claimants”.

For Respondent Ameriprise Financial Services, Inc.: Howard M. Klausmeier, Esq., Ameriprise Financial Services, Inc., Minneapolis, Minnesota.

CASE INFORMATION

Statement of Claim filed on or about: May 27, 2021.

Claimants signed the Submission Agreement: May 27, 2021.

Statement of Answer filed by Respondent on or about: July 29, 2021.

Respondent signed the Submission Agreement: July 29, 2021.

CASE SUMMARY

In the Statement of Claim, Claimants 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 supported Claimants' expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested:

1. Expungement of Occurrence Numbers 1423163 and 1479935 from their respective CRD records, pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous;
2. Expungement of Occurrence Numbers 1423163 and 1479935 from their respective CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
3. Deletion of all Disclosure Reporting Pages accompanying Occurrence Numbers 1423163 and 1479935; and
4. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. An award recommending the expungement of the subject customer complaint from Claimants' CRD records; and
2. Denial of any and all relief requested against Respondent.

OTHER ISSUES CONSIDERED AND DECIDED

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

On June 28, 2021, the parties agreed to proceed with a single arbitrator for this matter.

On November 24, 2021, Claimants advised that the customer in Occurrence Numbers 1423163 and 1479935 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. On November 29, 2021, Claimants filed an Affidavit confirming that the Customer was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on January 18, 2022, so the parties could present oral argument and evidence on Claimants' request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, supported 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 Claimants' BrokerCheck® Reports. The Arbitrator noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrences in the CRD.

The Arbitrator was unable to review the settlement documentation related to Occurrence Numbers 1423163 and 1479935. The Arbitrator found that there was no formal settlement agreement. Having reviewed settlement correspondence and memorandum where there was a valid offer and acceptance of a settlement amount, Claimants' CRD records and Claimants'

BrokerCheck® Reports concerning Occurrence Numbers 1423163 and 1479935, and hearing Claimants' testimony, the Arbitrator considered the amount of payment made in the settlement and that Claimants did not contribute to the settlement amount. The Arbitrator noted that the date of the settlement preceded the effective date of the rule against conditioned settlements.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: pleadings; Claimants' BrokerCheck® Reports; and exhibits.

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 1423163 from registration records maintained by the CRD for Claimant James Lowry McCoy (CRD Number 719830) with the understanding that, pursuant to Notice to Members 04-16, Claimant James Lowry McCoy must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

The Arbitrator also recommends the expungement of all references to Occurrence Number 1479935 from registration records maintained by the CRD for Claimant Joshua Lee McCoy (CRD Number 2555753) with the understanding that, pursuant to Notice to Members 04-16, Claimant Joshua Lee McCoy 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 claim, allegation, or information is false.

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

The claim that Claimants should have notified the Customer that Lehman Bonds were going to decline in value is factually impossible and clearly erroneous (Rule 2080(b)(1)(A)) and the claim that Claimants made an error in a Bond Trade is false (Rule 2080(b)(1)(C)). Claimants could not have known in advance of the impending "crash" in financial markets and there was a confirmation by an internal investigator that there was no error in Claimants' recommendation and the Customer's decision to purchase Lehman Bonds.

From the evidence, it is clear that the Customer simply wanted to recover money for the decline in value from his Lehman Bonds. There was no error or other impropriety on the

part from Claimants. It is also noted that Claimants and the Customer had a ten-year relationship prior to the Customer's claim and that the settlement was paid by the Respondent without contribution by either Claimant.

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 for James Lowry McCoy	= \$ 1,600.00
Initial Claim Filing Fee for Joshua Lee McCoy	= \$ 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

Late Pre-Hearing Cancellation Fees

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

November 11, 2021 cancellation requested Claimants	Waived
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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 @ \$1,150.00/session	= \$ 1,150.00
Pre-Hearing Conference: September 21, 2021 1 session	

One (1) hearing session on expungement request @ \$1,150.00/session	= \$ 1,150.00
Hearing: January 18, 2022 1 session	

Total Hearing Session Fees	= \$ 2,300.00
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The Arbitrator has assessed the total hearing session fees jointly and severally to Claimants.

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

ARBITRATOR

Robert D. Sussin

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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

Robert D. Sussin

Robert D. Sussin
Sole Public Arbitrator

01/21/2022

Signature Date

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January 21, 2022

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