

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Paul Andrew Barr

Case Number: 21-01685

vs.

Respondent
FSC Securities Corporation

Hearing Site: Des Moines, Iowa

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 Paul Andrew Barr (“Claimant”): Dochter Kennedy, Esq. and Benjamin Winograd, Esq., AdvisorLaw LLC, Westminster, Colorado.

For Respondent FSC Securities Corporation (“Respondent”): James V. Noblett, Esq., Jersey City, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: July 1, 2021.
Claimant signed the Submission Agreement: July 1, 2021.

Statement of Answer filed on or about: August 13, 2021.
Respondent signed the Submission Agreement: August 13, 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 1847099 and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not request relief.

OTHER ISSUES CONSIDERED AND DECIDED

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

On July 28, 2021, the parties stipulated to the appointment of a single arbitrator pursuant to Rule 13401(c) of the Code of Arbitration Procedure (“Code”).

On December 16, 2021, Claimant filed a copy of the Death Record and obituary for the customer in Occurrence Number 1847099 (“Customer”). On December 20, 2021, Claimant filed an Affidavit stating that the Customer was not served with the Statement of Claim and notice of the date and time of the expungement hearing, because the Customer is deceased.

The Arbitrator conducted a recorded, telephonic hearing on January 21, 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 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 1847099, 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 testimony and Claimant’s Exhibits, the settlement agreement and Claimant’s BrokerCheck® Report.

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 1847099 from registration records maintained by the CRD for Claimant Paul Andrew Barr (CRD Number 1748415) with the understanding that, pursuant to Notice to Members 04-16, Claimant Paul Andrew Barr 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, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

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

The Customer alleged in the underlying arbitration case that Claimant's recommendation to purchase a variable universal life insurance policy ("VUL") was unsuitable. After review of all of the documents presented and Claimant's sworn testimony, I conclude that the preponderance of the evidence has established that the allegations are false, the award demand of \$733,000.00 in the Customer's Statement of Claim against Respondent and Claimant was settled for \$45,000.00 for business reasons and Claimant did not contribute to the settlement. The testimony and Claimant's exhibits established that Claimant provided several suitable insurance options to the Customer and his heating and cooling company to fund a buy/sell. The Customer, with input from his CPA, chose the VUL option. Claimant explained the importance of timely premium payments and continued to provide insurance advice and policy options to the Customer over the years, but the advice was ignored. The VUL policy was terminated due to the Customer's failure to pay premiums in a timely manner. The Customer never stated any complaint as to the VUL policy until the attorney letter in 2014 which contained several factual errors. Therefore, this Arbitrator concludes that the allegations are false and the occurrence should be expunged.

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
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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 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 @ \$1,150.00/session		= \$	1,150.00
Pre-Hearing Conference: October 29, 2021	1 session		
One (1) hearing session on expungement request @ \$1,150.00/session		= \$	1,150.00
Hearing: January 21, 2022	1 session		
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Total Hearing Session Fees		= \$	2,300.00

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

Robert J. Scafuri

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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 J. Scafuri

Robert J. Scafuri
Sole Public Arbitrator

01/28/2022

Signature Date

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January 28, 2022

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