

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Ranjesh Kumar Singh

Case Number: 21-01829

vs.

Respondent
Merrill Lynch, Pierce, Fenner & Smith Inc.

Hearing Site: New York, New York

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 Ranjesh Kumar Singh: David I. Hantman, Esq., Bressler, Amery & Ross, P.C., New York, New York.

For Respondent Merrill Lynch, Pierce, Fenner & Smith Inc.: Maria V. Martin, Esq., Rubin, Fortunato & Harbison P.C., Paoli, Pennsylvania.

CASE INFORMATION

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

Ranjesh Kumar Singh signed the Submission Agreement: July 19, 2021.

Statement of Answer filed by Respondent on or about: August 11, 2021.

Merrill Lynch, Pierce, Fenner & Smith Inc. signed the Submission Agreement: August 11, 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 took no position on Claimant’s expungement request and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 2064595.

In the Statement of Answer, Respondent did not set forth a specific relief request.

OTHER ISSUES CONSIDERED AND DECIDED

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

The parties agreed that pursuant to Rule 13401(c) of the Code of Arbitration Procedure, this matter would be decided by one arbitrator.

On September 16, 2021, Claimant advised that the customer in Occurrence Number 2064595 (“customer”) was served with the Statement of Claim and notice of the date and time of the expungement hearing.

By correspondence dated September 24, 2021, Respondent informed FINRA Dispute Resolution Services that it will not be participating in the September 27, 2021 expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on September 27, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent did not participate in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement.

The customer also 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 also reviewed the settlement documentation related to Occurrence Number 2064595, 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: pleadings; exhibits; Claimant’s testimony; Claimant’s BrokerCheck® Report; and the settlement agreement.

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 2064595 from registration records maintained by the CRD for Claimant Ranjesh Kumar Singh (CRD Number 4254820) with the understanding that, pursuant to Notice to Members 04-16, Claimant Ranjesh Kumar Singh 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; and the claim, allegation, or information is false.

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

At the time the customer filed the complaint in 2020, the Claimant had ceased being her representative seven years prior. The customer's complaint contained allegations of misrepresentations and unsuitability regarding the customer's investment in Urban Infrastructure Real Estate Fund. These allegations were clearly refuted by the documentary evidence introduced during the hearing and the Claimant's testimony during the hearing. The customer specifically requested that the Claimant find a fund such as the real estate fund that invested in India real estate. Prior to investing in the fund, the customer was provided documents including brochures, a prospectus, an accredited investor questionnaire verification, subscription agreement; attended conference calls facilitated by Merrill Lynch about the specifics of the fund including the risk attendant to investment in the fund; and finally, the Claimant met with the customer to review the documents and address questions regarding investment in the specific fund. As to the unsuitability allegation, the investment was in line with the barbell investment approach that the Claimant applied to the customer's accounts. This approach required 80% of the customer's total investment to be allocated to fixed income assets and 20% to alternative assets. The investment in the fund was well within that 20% allocation for alternative assets and thus, was aligned with the customer's investment profile. Though the customer's complaint was ultimately settled; the Claimant played no part in the settlement negotiations and did not contribute to the settlement amount. Furthermore, the settlement amount was a fraction of the amount sought by the customer's complaint. For the aforementioned reasons, the Claimant's request for expungement of customer complaint 2064595 is granted on the basis of Rule 2080 (b)(1)(A) and Rule 2080 (b)(1)(C).

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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent Merrill Lynch, Pierce, Fenner & Smith Inc. 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) hearing session on expungement request @ \$1,150.00/session	=\$ 1,150.00
Hearing: September 27, 2021 1 session	

Total Hearing Session Fees	=\$ 1,150.00
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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

Josian Antoine

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Arbitrator's Signature

Josian Antoine

Josian Antoine
Sole Public Arbitrator

10/04/2021

Signature Date

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October 05, 2021

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