

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

David McFarland Amann

Case Number: 21-02043

vs.

Respondent

Edward Jones

Hearing Site: San Francisco, 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 Person vs. Member

REPRESENTATION OF PARTIES

For Claimant David McFarland Amann: Brian Luther, JD, FA Expungement, LLC, Denver, Colorado.

For Respondent Edward Jones: Teresa J. Thong, Esq., Keesal, Young & Logan, Long Beach, California.

CASE INFORMATION

Statement of Claim filed on or about: August 7, 2021.

Claimant signed the Submission Agreement: August 7, 2021.

Statement of Answer filed by Respondent on or about: September 9, 2021.

Respondent signed the Submission Agreement: September 8, 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 Numbers 1609210

and 1606258 from Claimant's CRD records, pursuant to a find that the claim, allegation, and information is factually impossible and clearly erroneous pursuant to FINRA Rule 2080(b)(1)A), and the claim, allegation, and information is false pursuant to FINRA Rule 2080(b)(1)(C).

In the Statement of Answer, Respondent requested denial of any request for relief besides expungement.

OTHER ISSUES CONSIDERED AND DECIDED

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

On August 31, 2021, the parties stipulated to proceed with a single arbitrator in this matter.

On February 22, 2022, Claimant advised that the customers in Occurrence Numbers 1609210 ("Mr. B") and 1606258 ("Ms. S") (collectively "Customers") were 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 March 15, 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 Customers did not participate in the expungement hearing. The Arbitrator found that the Customers 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 occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Numbers 1609210 and 1606258, considered the amount of payment made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to the settlement amounts.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's exhibits, including the settlement agreements in both Occurrence Numbers.

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:

The Arbitrator recommends the expungement of all references to Occurrence Numbers 1609210 and 1606258 from registration records maintained by the CRD for Claimant David McFarland Amann (CRD Number 4665018) with the understanding that, pursuant to Notice to Members 04-16, Claimant David McFarland Amann 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 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:

Occurrence Number 1609210

Factually impossible because: The conduct complained of was an error in account amount that was made by the firm, not Claimant, and could not have been made by Claimant since he was not the person at the firm involved in making the type of entry that was erroneous in this occurrence. The firm acknowledged that the error occurred at the branch and was not Claimant's responsibility.

Occurrence Number 1606258

Clearly erroneous because: The alleged misconduct of not telling the customer the tax implications of a transaction was clearly erroneous because Claimant advised Ms. S in numerous undisputed and well documented ways that he was not responsible for giving tax advice and that Ms. S should seek tax advice on the tax effects of the transaction at issue.

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:

One (1) pre-hearing session with a single Arbitrator @ \$1,150.00/session	= \$ 1,150.00
Pre-Hearing Conference: November 29, 2021 1 session	

One (1) hearing session on expungement request @ \$1,150.00/session	= \$ 1,150.00
Hearing: _____ March 15, 2022 1 session	

Total Hearing Session Fees	= \$ 2,300.00
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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

Alden Sharp Adkins

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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

Alden Sharp Adkins

Alden Sharp Adkins
Sole Public Arbitrator

03/21/2022

Signature Date

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March 22, 2022

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