

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Thomas Roney Chaney

Case Number: 20-04058

vs.

Respondent

LPL Financial LLC

Hearing Site: Albuquerque, New Mexico

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 Thomas Roney Chaney (“Claimant”): James P. Galvin, Esq., Galvin Legal, PLLC, Decatur, Georgia.

For Respondent LPL Financial LLC (“Respondent”): Jon D. Kaplon, Esq., LPL Financial LLC, Boston, Massachusetts.

CASE INFORMATION

Statement of Claim filed on or about: December 14, 2020.

Claimant signed the Submission Agreement: December 14, 2020.

Statement of Answer filed by Respondent on or about: February 2, 2021.

Respondent signed the Submission Agreement: December 23, 2020.

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:

1. Expungement of Occurrence Number 2001891 from Claimant’s CRD records pursuant to

FINRA Rule 2080, as:

- a. the claim, allegation, or information is factually impossible or clearly erroneous; and/or
 - b. Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and/or
 - c. the claim, allegation, or information is false; and
2. All such other and further relief as is just and equitable.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

On May 14, 2021, Claimant filed a notice stating that the underlying complaint of the deceased customer in Occurrence Number 2001891 ("Customer") was submitted by the deceased Customer's wife who did not have the capacity of executor of the estate. On the same day, Claimant submitted the Memorandum Opinion issued by the Court of Appeals of the State of New Mexico affirming that the deceased Customer's wife was unauthorized to be the executor of the estate. Accordingly, the Panel found that sending a copy of the Statement of Claim and notice of the expungement to the Customer or his representative in the underlying dispute was not required.

The Panel conducted a recorded, telephonic hearing on August 16, 2021, 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 Panel 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 Panel noted that the dispute related to Occurrence Number 2001891 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Panel relied upon the following documentary or other evidence: pleadings and the Memorandum Opinion issued by the Court of Appeals of the State of New Mexico.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of all references to Occurrence Number 2001891 from registration records maintained by the CRD for Claimant Thomas Roney Chaney (CRD Number 1589355) with the understanding that, pursuant to Notice to Members 04-16,

Claimant Thomas Roney Chaney 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 Panel 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 Panel has made the above Rule 2080 findings based on the following reasons:

The Panel unanimously found that the claim was clearly erroneous and false according to FINRA Rule 2080(b)(1)(A) and 2080(b)(1)(C). Claimant's request for expungement is recommended. The deceased Customer's wife, the party who made the complaint against Claimant as purported executor of the estate of the Customer, was not authorized to make the claim as executor. She was removed by the court as the informal executor, a status she had fraudulently claimed. The court documents supporting her removal were attached to Claimant's claim. Consequently, the Customer was not notified of the expungement hearing. The Panel found that Claimant properly prepared paperwork regarding the disbursement of Roth IRA and traditional IRA accounts to designated beneficiaries of Claimant's deceased Customer's IRA accounts on his death.

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:

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|--------------------------|---------------|
| Initial Claim Filing Fee | = \$ 1,575.00 |
|--------------------------|---------------|

**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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

| | |
|--------------------|---------------|
| Member Surcharge | = \$ 1,900.00 |
| Member Process Fee | = \$ 3,750.00 |

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Panel, including a pre-hearing conference with the Panel, which lasts four (4) hours or less. Fees associated with these proceedings are:

| | | |
|---|-----------|----------|
| One (1) pre-hearing session with the Panel @ \$1,125.00/session | = \$ | 1,125.00 |
| Pre-Hearing Conference: March 16, 2021 | 1 session | |

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|---|-----------|----------|
| One (1) hearing session on expungement request @ \$1,125.00/session | = \$ | 1,125.00 |
| Hearing: August 16, 2021 | 1 session | |

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| Total Hearing Session Fees | = \$ | 2,250.00 |
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The Panel has assessed the total hearing session fees to Claimant.

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

ARBITRATION PANEL

| | | |
|--------------------------|---|--|
| Mary Margaret Bush | - | Public Arbitrator, Presiding Chairperson |
| John J. Fitzpatrick, Jr. | - | Public Arbitrator |
| Gene R Thornton | - | Non-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.

Concurring Arbitrators' Signatures

Mary Margaret Bush

Mary Margaret Bush
Public Arbitrator, Presiding Chairperson

08/20/2021

Signature Date

John J. Fitzpatrick, Jr.

John J. Fitzpatrick, Jr.
Public Arbitrator

08/21/2021

Signature Date

Gene R Thornton

Gene R Thornton
Non-Public Arbitrator

08/23/2021

Signature Date

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August 23, 2021

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