

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Virginia Frances Thompson

Case Number: 21-00914

vs.

Respondent

Janney Montgomery Scott LLC

Hearing Site: Boca Raton, Florida

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 Virginia Frances Thompson: James P. Galvin, Esq., Galvin Legal, PLLC, Decatur, Georgia.

For Respondent Janney Montgomery Scott LLC: Jill B. Clarke, VP, Esq., Janney Montgomery Scott LLC, Philadelphia, Pennsylvania.

CASE INFORMATION

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

Virginia Frances Thompson signed the Submission Agreement: April 7, 2021.

Statement of Answer filed by Respondent on or about: April 16, 2021.

Janney Montgomery Scott LLC signed the Submission Agreement: April 19, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of customer complaint information from registration records maintained by the Central Registration Depository ("CRD").

In the Statement of Answer, Respondent took no position on Claimant's expungement requests made in the Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1428333,

1412572, and 1348925, and for all such other and further relief that the Panel deems just and equitable.

In the Statement of Answer, Respondent did not delineate a request.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On October 8, 2021, Respondent advised that it would not be participating in the expungement hearing.

On October 10, 2021, Claimant advised that the customer in Occurrence Number 1428333 was served with the Statement of Claim and notice of the date and time of the expungement hearing, and that the customers in Occurrence Numbers 1412572 and 1348925 are believed to be deceased (all collectively referred to as "Customers").

On October 21, 2021, the Panel issued an Order stating that the customer in Occurrence Number 1428333 was not provided with sufficient notice of the originally scheduled hearing date and directed Claimant to resend this customer notice of the new date and time of the hearing, with proof of delivery. The Order further stated that although Claimant represented the underlying customers in Occurrence Numbers 1412572 and 1348925 are likely deceased, there was no attempt to serve these customers (or in one circumstance the grantee of the customer's Power of Attorney). Therefore, the Panel directed Claimant to send notice to the last known address of these customers with proof of delivery (or lack thereof), or in the alternative, provide death certificates for these presumably deceased customers.

On October 22, 2021, in accordance with the Panel's October 21, 2021 Order, Claimant advised that the Customers were served at their last known addresses with the Statement of Claim and notice of the date and time of the rescheduled expungement hearing.

On November 9, 2021, Claimant advised that the USPS electronic database reflects that the package was successfully delivered to the customer in Occurrence Number 1428333 on October 25, 2021 at 2:15 pm.

On November 9, 2021 and December 6, 2021, Claimant advised that the USPS electronic database reflects that delivery was not successful upon the customers in Occurrence Numbers 1412572 and 1348925, both of whom the Claimant believes to be deceased.

The Panel conducted a recorded, telephonic hearing on December 17, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Neither Respondent nor any of the Customers participated in the expungement hearing. The Panel found that the customer in Occurrence Number 1428333 had notice of the expungement request and hearing, and that Claimant's attempts at service upon the customers in Occurrence Numbers 1412572 and 1348925 were sufficient to proceed in this matter.

The Panel reviewed Claimant's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrences in the CRD.

The Panel noted that the complaints related to Occurrence Numbers 1428333, 1412572, and 1348925 were denied internally by Respondent, and, therefore, there were no settlement documents to review.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimant's BrokerCheck® report; service or attempted service on the Customers, Claimant's Statement of Claim; and Claimant's testimony.

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 Numbers 1428333, 1412572, and 1348925 from registration records maintained by the CRD for Claimant Virginia Frances Thompson (CRD Number 1834046) with the understanding that, pursuant to Notice to Members 04-16, Claimant Virginia Frances Thompson 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 finding of fact:

The claim, allegation, or information is false.

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

Occurrence Number 1428333

The Customer was referred to Claimant by an existing client. The Customer sought income and growth with moderate risk tolerance. Claimant recommended diversification, but the Customer wanted concentration in common stocks. The May 2008 financial collapse caused the Customer's portfolio to decrease, which gave rise to the Customer's complaint to Respondent. Respondent undertook an internal investigation and denied the complaint. No further action was taken by the Customer.

Occurrence Number 1412572

The Customer was referred to Claimant by an existing client. The Customer sought income and growth with moderate risk tolerance. During the course of Claimant's interactions with the Customer, Claimant determined that the Customer was unable to make certain financial decisions and specifically advised the Customer's daughter that no transactions would occur until the Customer's daughter obtained control of the account.

As such, during the 18-month period while the Customer's competency was an issue and the daughter had not yet acquired control, Claimant made no transactions in the account. By the time the Customer's daughter finally obtained control of the account via Power of Attorney, the market had recessed, and the Customer's daughter filed an internal complaint with Respondent. After an internal investigation, Respondent denied the complaint. The daughter of the Customer took no further action.

Occurrence Number 1348925

The Customer looked to increase yields on her investments and had heard the Claimant on her radio show. The Customer sought growth and income with a moderate to aggressive risk tolerance. The Customer was an experienced investor and came to Respondent with an existing portfolio. As Claimant testified (and not disputed by contrary testimony), Claimant attempted to contact the Customer to discuss the portfolio on several occasions, but the Customer was preoccupied with her out of state move and the loss of her pet, and never responded to Claimant. The Customer filed a complaint with Respondent. Respondent investigated the claim internally and denied the complaint. No further action was taken by the Customer.

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:

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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent Janney Montgomery Scott LLC is assessed the following:

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

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

October 15, 2021, postponement by the Panel	= \$ 1,125.00
---	---------------

Total Postponement Fees	= \$ 1,125.00
-------------------------	---------------

The Panel has assessed the total postponement fees to Claimant.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within three business days before the start of a scheduled hearing session:

October 15, 2021, cancellation by the Panel	= \$ 1,800.00
<hr/>	
Total Last-Minute Cancellation Fees	= \$ 1,800.00

The Panel has assessed the total last-minute cancellation fees to Claimant.

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 Arbitrator, including a pre-hearing conference with the Arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with the full Panel @ \$1,125.00/session	= \$ 2,250.00
Pre-Hearing Conferences: August 13, 2021	1 session
October 15, 2021	1 session
One (1) hearing session on expungement request @ \$1,125.00/session	= \$ 1,125.00
Hearing: December 17, 2021	1 session
<hr/>	
Total Hearing Session Fees	= \$ 3,375.00

FINRA Dispute Resolution Services has waived the \$1,125.00 fee in connection with the pre-hearing conference conducted on October 15, 2021.

The Panel has assessed the balance of \$2,250.00 in hearing session fees to Claimant.

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

ARBITRATION PANEL

Louis David Huss	-	Public Arbitrator, Presiding Chairperson
Robert Lawrence Ostrov	-	Public Arbitrator
Michael Lau	-	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

Louis David Huss

Louis David Huss
Public Arbitrator, Presiding Chairperson

12/21/2021

Signature Date

Robert Lawrence Ostrov

Robert Lawrence Ostrov
Public Arbitrator

12/21/2021

Signature Date

Michael Lau

Michael Lau
Non-Public Arbitrator

12/21/2021

Signature Date

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.

December 21, 2021

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