

**Expungement Award
FINRA Dispute Resolution Services**

In the Matter of the Arbitration Between:

Claimant

Kyle C. Cryer

Case Number: 24-01822

vs.

Respondent

LPL Financial LLC

Hearing Site: Los Angeles, 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

The expungement hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Kyle C. Cryer: David I. Hantman, Esq., Bressler, Amery & Ross, P.C., New York, New York.

For Respondent LPL Financial LLC: Michael T. West, Esq., LPL Financial, LLC, San Diego, California.

CASE INFORMATION

Statement of Claim filed on or about: August 23, 2024.

Claimant signed the Submission Agreement: August 23, 2024.

Statement of Answer filed by Respondent on or about: September 9, 2024.

Respondent signed the Submission Agreement: September 3, 2024.

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 (CRD Number 6467254) requested expungement of Occurrence Number 2303716 from his CRD.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

On September 3, 2024, Claimant advised that the customer in Occurrence Number 2303716 (“Customer”) was served with a copy of the Statement of Claim within 10 days of filing the Statement of Claim. On September 5, 2024, the Customer registered for the DR Portal, providing her with access to all documents filed in the case. The Panel determined that the Customer was served with a copy of the Statement of Answer within 10 days of filing. The Panel also determined that the service for the Statement of Claim, Statement of Answer, copies of all documents provided by Claimant to the Customer, and copies of all communications sent to the Customer and responses received from the Customer was satisfactory.

On November 27, 2024, the Customer submitted a written statement and opposed the expungement request.

The Panel conducted a recorded hearing by videoconference on December 5, 2024, so the parties could present oral argument and evidence on Claimant’s request for expungement. Claimant participated by videoconference at the expungement hearing. Respondent participated in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement.

The Customer participated in the expungement hearing and opposed the expungement request. The authorized representative of California Department of Financial Protection and Innovation (the state securities regulator for California) also participated in the expungement hearing and opposed the expungement request.

The Panel noted Claimant’s representation that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

The Panel noted that the dispute related to Occurrence Number 2303716 was not settled and, therefore, there was no settlement documentation to review.

The Panel relied upon the following documentary or other evidence: testimony of Claimant and Frank Rehhaus, his supervisor; account application signed by the Customer dated 5/18/2023 changing type of account investment strategy; and account statements for the Customer’s account showing increase in value.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, the Panel has decided in full and final resolution of the issues submitted for

determination as follows:

The Panel awards the expungement of all references to Occurrence Number 2303716 from registration records maintained by the CRD for Claimant Kyle Cryer (CRD Number 6467254) with the understanding that, pursuant to Rule 2080, Claimant Kyle Cryer 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 affirmative finding of fact:

The claim, allegation, or information is false.

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

The Customer’s complaint as shown on Claimant’s BrokerCheck Report alleged unauthorized trading and rebalancing of the Customer’s account leading to a loss. The testimony and evidence showed that:

- 1) Claimant had been assigned to take over the Customer’s account after her prior financial advisor left the firm.
- 2) Claimant contacted the Customer by telephone and met with her in person and discussed the changes he recommended with the Customer. The Customer approved and expressly authorized in writing the transition of her account to the discretionary managed one listed in the Account Application signed by the Customer dated May 18, 2023.
- 3) At some point, the Customer’s previous financial advisor reached out to her, and she agreed to move her account back to him and another of her previous financial advisors at a different firm.
- 4) There was no loss in the Customer’s account while it was in the hands of Claimant. In fact, there was a gain.

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 Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator(s), including a pre-hearing conference with the Arbitrator(s), 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: December 5, 2024 1 session		
<hr/>		
Total Hearing Session Fees	= \$	1,150.00

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

Edith M. Novack	-	Public Arbitrator, Presiding Chairperson
James R. McGuone	-	Public Arbitrator
George Pinckney Shingler	-	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

<u>Edith M. Novack</u>	<u>12/23/2024</u>
Edith M. Novack	Signature Date
Public Arbitrator, Presiding Chairperson	

<u>James R. McGuone</u>	<u>12/28/2024</u>
James R. McGuone	Signature Date
Public Arbitrator	

<u>George Pinckney Shingler</u>	<u>12/26/2024</u>
George Pinckney Shingler	Signature Date
Public Arbitrator	

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 30, 2024
Date of Service (For FINRA Dispute Resolution Services use only)