

**Expungement Award
FINRA Dispute Resolution Services**

In the Matter of the Arbitration Between:

Claimant

Kevin J. Schaefer

Case Number: 24-01094

vs.

Respondent

Merrill Lynch, Pierce, Fenner & Smith Inc.

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

The expungement hearing was conducted via videoconference.

REPRESENTATION OF PARTIES

For Claimant Kevin J. Schaefer (“Claimant”): Abe Lampart, Esq., Law Offices of Abe Lampart, P.C., Mill Valley, California.

For Respondent Merrill Lynch, Pierce, Fenner & Smith Inc. (“Respondent”): Kathryn D. Perreault, Esq., Maynard Nexsen, PC, Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: May 17, 2024.
Claimant signed the Submission Agreement: May 14, 2024.

Statement of Answer filed by Respondent on or about: August 9, 2024.
Respondent signed the Submission Agreement: August 13, 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”) and a claim seeking expungement of an internal review from his Form U5.

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 (CRD Number 1286030) requested:

1. An award which includes findings that expungement of customer dispute information, Occurrence Numbers 2069252 and 2077615, is appropriate for him on all of the following grounds:
 - a. the claims and allegations are clearly erroneous (FINRA Rule 2080(b)(1)(A)) or false (FINRA Rule 2080(b)(1)(C)); and
 - b. expungement would have no material adverse effect on investor protection, the integrity of the CRD system, or regulatory requirements (FINRA Rule 2080(b)(2)(A) & (B)).
2. Expungement of Claimant's Form U5 corresponding with Occurrence Number 2049449.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

On May 18, 2024, Claimant advised that the customers in Occurrence Number 2069252 ("Mr. S and Mrs. S") were served with a copy of the Statement of Claim within 10 days of filing the Statement of Claim. On the same day, Claimant filed proof of service for the Statement of Claim to Mr. S and Mrs. S.

On May 23, 2024, Claimant advised that the customers in Occurrence Number 2077615 ("Mr. H and Mrs. H") were served with a copy of the Statement of Claim within 10 days of filing the Statement of Claim. On the same day, Claimant filed proof of service for the Statement of Claim to Mr. H and Mrs. H.

Hereinafter, Mr. S, Mrs. S, Mr. H, and Mrs. H are collectively referred to as "Customers".

On August 19, 2024, Claimant advised that the Customers were served with a copy of the Statement of Answer within 10 days of its filing. On the same day, Claimant filed proof of service for the Statement of Answer to the Customers.

On October 14, 2024, Mr. S registered for the DR Portal, providing him with access to all documents filed in the case.

On January 10, 2025, the authorized representative of the state securities regulator for the State of California submitted a written statement.

The Panel conducted a recorded hearing by videoconference from January 15 - 17, 2025, 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 Customers did not participate in the expungement hearing. The authorized representatives of the state securities regulator for the State of California participated in the expungement hearing and opposed the expungement request.

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. Claimant's request for expungement of Occurrence Numbers 2077615 and 2069252 from registration records maintained by the CRD is denied.
2. Claimant's request for expungement of his Form U5 corresponding with Occurrence Number 2049449 is denied.
3. 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:

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(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

Discovery-Related Motion Fee

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision	= \$	200.00
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Claimant submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	= \$	200.00
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The Panel has assessed the total discovery-related motion 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(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) pre-hearing session with the Panel @ \$1,150.00/session	= \$	1,150.00
Pre-Hearing Conference: August 19, 2024	1 session	

Four (4) hearing sessions on expungement request @ \$1,150.00/session	= \$	4,600.00
Hearings: January 15, 2025	2 sessions	
January 16, 2025	1 session	
January 17, 2025	1 session	

Total Hearing Session Fees	= \$	5,750.00
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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

Patrick R. Sughroue	-	Public Arbitrator, Presiding Chairperson
Andrew M. Mintzer	-	Public Arbitrator
Thomas M. Madden	-	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

Patrick R. Sughroue

Patrick R. Sughroue
Public Arbitrator, Presiding Chairperson

04/03/2025

Signature Date

Andrew M. Mintzer

Andrew M. Mintzer
Public Arbitrator

04/03/2025

Signature Date

Thomas M. Madden

Thomas M. Madden
Public Arbitrator

04/03/2025

Signature Date

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April 03, 2025

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