

AWARD
FINRA DISPUTE RESOLUTION

CASE #: 11-02066

Brian Keith Lureen (Claimant) vs. Eplanning Securities, Inc. (Respondent)

REPRESENTATION OF PARTIES:

For Claimant Brian Keith Lureen: Ian J. Frimet, Esq., Burkhardt Wexler & Hirschberg, LLP,
Garden City, New York.

Respondent Eplanning Securities, Inc. did not enter an appearance in this matter.

NATURE OF DISPUTE: Associated Person vs. Member

Statement of Claim filed on or about: May 23, 2011.

CASE SUMMARY: Claimant asserted the following cause of action: improper and erroneous filing of customer complaint with CRD.

RELIEF REQUESTED: In the Statement of Claim, Claimant requested:

Compensatory Damages:	\$500.00
Attorneys' Fees:	Unspecified
Costs:	Unspecified
Other:	Unspecified
Expungement:	From CRD record

AWARD: The undersigned Arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claim for compensatory damages is denied in its entirety.
2. Claimant's request for expungement is granted.

The Arbitrator conducted a recorded telephonic hearing on January 18, 2013 so the parties could present oral argument on Claimant's request for expungement.

The Arbitrator recommends the expungement of all references to the customer complaint alleging "inappropriate sale of variable annuities April 2002. Damages unspecified", occurrence number 1127183, dated September 9, 2003, from Claimant's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that, pursuant to Notice to Members 04-16, Claimant 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 12805/13805 of the 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:

- a) A written complaint was never filed by the customer of the Claimant.
- b) An attorney for the customer withdrew his complaint on behalf of the customer upon receiving evidence that there were no damages.
- c) The compliance officer at Eplanning Securities, Inc. prematurely reported a complaint on the Claimant's CRD and 3070(a) filing. Based on the Arbitrator's experience and the statements in the claim, the verbal complaint did not require the filing of a customer complaint.
- d) Under the provision of FINRA Rule 2080, the claim, allegation or information is factually impossible or clearly erroneous. There never was a written complaint alleging inappropriate sale of variable annuities nor a request for any form of damages.

3. All other relief requests are denied.

4. FINRA Dispute Resolution shall retain the \$50.00 filing fee that Claimant deposited.

OTHER FEES: The Arbitrator has assessed the \$50.00 expungement hearing session fee to Claimant.

OTHER ISSUES: The Arbitrator determined that Respondent was served notice of the Statement of Claim, Overdue Notice and Notification of Arbitrator by regular mail and is therefore bound by the Arbitrator's ruling and determination.

The Arbitrator acknowledges that he has read the pleadings and other materials filed by the Claimant.

On or about August 6, 2010, Respondent filed for bankruptcy under the United States Bankruptcy Code. By Order dated July 24, 2012, the United States Bankruptcy Court, Eastern District of California, approved a Stipulation for Limited Relief from Automatic Stay. Under the Stipulation, Claimant was granted limited relief from the automatic stay pursuant to 11 U.S.C. § 362, in order to pursue this arbitration for the sole purpose of obtaining an order expunging the customer complaint described in the Statement of claim.

