

AWARD
FINRA DISPUTE RESOLUTION

CASE #: 13-02300

George Timothy Adams and Donna Sabb (Claimants) vs. Virginia Smith and Virginia M. Smith Irrevocable Trust (Respondents)

REPRESENTATION OF PARTIES:

For Claimants George Timothy Adams and Donna Sabb: Vincent Imbesi, Imbesi Christensen, New York, New York.

For Respondents Virginia Smith and Virginia M. Smith Irrevocable Trust and Therese M. Smith as Trustee of The Virginia M. Smith Irrevocable Trust: Pierson Backes, Esq., Backes & Backes, Pennington, New Jersey.

NATURE OF DISPUTE: Associated Persons vs. Customers

Statement of Claim filed on or about: August 7, 2013.

CASE SUMMARY: Claimants asserted the following causes of action: defamation/wrongful recording of information.

The causes of action relate to American Legacy annuity contracts.

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

Compensatory Damages:	\$15,000.00
Attorneys' Fees:	Unspecified
Costs:	Unspecified
Other:	Expungement
Other:	Affirmatively make statement
Other:	Provide written statement

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

1. Claimants' request for expungement is granted. The Arbitrator recommends the expungement of all references to the customer complaint filed by Respondents against Claimants with CRD event dated March 3, 2009 in the above-captioned arbitration from Claimants George Timothy Adams (CRD# 2480675) and Donna Sabb's (CRD# 1587629) registration records maintained by the Central Registration Depository ("CRD"), with the understanding that, pursuant to Notice to Members 04-16, Claimants George Timothy Adams and Donna Sabb 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 of the Code, the Arbitrator made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

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

Virginia Smith was fully aware of and authorized the purchase and executed various documents in connection with the transaction. In June 2007, after Mr. Adams' and Ms. Sabb's extensive consultation with and authorization from Virginia Smith, Virginia M. Smith Irrevocable Trust and Therese M. Smith as Trustee of The Virginia M. Smith Irrevocable Trust, Mr. Adams' and Ms. Sabb purchased a second American Legacy annuity in the trust account. Both Virginia and Therese Smith were fully aware of and authorized the purchase. In later 2007 and 2008, financial markets around the world suffered one of the worst crises in history. On or about February 25, 2009, and despite the clear authorizations of the annuity purchases, Virginia and Therese Smith decided that they were no longer happy with the annuity purchases and Therese submitted a complaint to Smith Barney regarding the annuity purchases. Smith Barney, Mr. Adams' and Ms. Sabb's broker-dealer at the time, promptly conducted an investigation of the claim. Because the purchases had been properly authorized, the claim was denied. Although the claim was rightfully denied, it resulted in the publication of two defamatory reports on Mr. Adams' and Ms. Sabb's CRD reports. The claims, allegations, and information regarding the claim are false, inaccurate, and defamatory and therefore, should be expunged.

2. FINRA Dispute Resolution shall retain the \$425.00 filing fee that the Claimants deposited previously.
3. All other relief requests are denied.

OTHER FEES: The Arbitrator assessed one-half of the \$450.00 hearing session fee for the July 15, 2014 expungement hearing to George Timothy Adams and one-half to Donna Sabb.

OTHER ISSUES: The Arbitrator acknowledges that he read the pleadings and other materials filed by the parties.

On or about January 15, 2014, the parties settled claimants' claim for compensatory damages.

The Arbitrator reviewed the BrokerCheck reports for Claimants George Timothy Adams and Donna Sabb's and the settlement document, considered the settlement amounts paid to Claimants, and considered other relevant terms and conditions of the settlement. After due consideration, the Arbitrator granted the expungement request.

The Arbitrator conducted a recorded telephonic hearing on July 15, 2014 so the parties could present oral argument and evidence on George Timothy Adams and Donna Sabb's requests for expungement. Respondents did not participate in the hearing.

ARBITRATOR

Steven T. Stern

Sole 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.

Arbitrator's Signature



Steven T. Stern
Sole Public Arbitrator

9/22/14

Signature Date

September 30, 2014

Date of Service (For FINRA-DR office use only)