Award  
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant  
Toby S. Hazel

vs.

Respondents  
Ameriprise Financial Services, Inc.  
David Lee Hall

Case Number: 19-01891  
Hearing Site: Honolulu, Hawaii

Nature of the Dispute: Customer vs. Member and Associated Person

REPRESENTATION OF PARTIES

Claimant Toby S. Hazel (“Claimant”) appeared pro se.


Hereinafter, Ameriprise and Hall are collectively referred to as “Respondents.”

CASE INFORMATION

Amended Statement of Claim filed on or about: July 4, 2019.  
Claimant signed the Submission Agreement: July 28, 2019.

Statement of Answer filed by Respondents on or about: September 20, 2019.  
Hall signed the Submission Agreement: September 16, 2019.  
Ameriprise signed the Submission Agreement: September 19, 2019.

CASE SUMMARY

Claimant alleged that Hall either did not know or did not tell her that withdrawing funds from her RiverSource RAVA5 Advantage Variable Annuity (“RiverSource”) account would not be considered “income” by the U.S. Department of Housing and Urban Development in determining her eligibility for senior housing, and that he failed to promptly resume the monthly withdrawals according to her instructions.

Unless specifically admitted in the Statement of Answer, Respondents denied the allegations made in the Amended Statement of Claim and asserted various affirmative defenses.
RELIEF REQUESTED

In the Amended Statement of Claim, Claimant requested:
   1. Compensatory damages in the amount of $5,000.00 for the loss of income in her RiverSource account; and
   2. Punitive damages in the amount of $3,000.00.

In the Statement of Answer, Respondents requested:
   1. Dismissal of the Amended Statement of Claim with prejudice;
   2. Costs and fees in having to defend this matter; and
   3. Expungement of this matter from Hall’s Central Registration Depository (“CRD”) records.

OTHER ISSUES CONSIDERED AND DECIDED

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

Claimant amended the Statement of Claim prior to service of the claim. Although the claim is entitled Amended Statement of Claim, it is deemed the only Statement of Claim filed in this case.

This case was administered under the Special Proceeding option for simplified cases.

During the Special Proceeding hearing, the parties presented oral argument and evidence on Hall’s request for expungement. Claimant opposed Hall’s expungement request.

The Arbitrator has provided an explanation of his decision in this award. The explanation is for the information of the parties only and is not precedential in nature.

The parties have agreed that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented during the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant’s claim is denied in its entirety.

2. Hall’s request for expungement of the above-mentioned arbitration, occurrence number 2043280, from his CRD records is denied. Although Claimant established no wrongdoing by Hall, the criteria for the extraordinary remedy of expungement was not met.

3. Any and all claims for relief not specifically addressed herein, including Claimant’s request for punitive damages, are denied.
FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

**Filing Fees**
FINRA Office of Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing Fee = $325.00

*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, Ameriprise is assessed the following:

Member Surcharge = $325.00

**Hearing Session Fees and Assessments**
The Arbitrator 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), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single arbitrator @ $250.00/session = $250.00
Pre-hearing conference: November 20, 2019 1 session

One (1) hearing session @ $250.00/session = $250.00
Hearing Date: December 16, 2019 1 session

Total Hearing Session Fees = $500.00

The Arbitrator has assessed $500.00 of the hearing session fees to Ameriprise.

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

Jon H. Sylvester - Sole Public Arbitrator

Signature Date: 12/18/2019

Date of Service (For FINRA Office of Dispute Resolution office use only)

December 18, 2019