

**Expungement Award  
FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Steven Gary Prestyly

Case Number: 23-02806

vs.

Respondent  
LPL Financial LLC

Hearing Site: Norfolk, Virginia

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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

**REPRESENTATION OF PARTIES**

For Claimant Steven Gary Prestyly: Daniel D'Costa, Esq., D'Costa Law, P.C., Hicksville, New York.

For Respondent LPL Financial LLC: Eleonora Yonge, Esq., LPL Financial LLC, San Diego, California.

**CASE INFORMATION**

Statement of Claim filed on or about: October 10, 2023.  
Steven Gary Prestyly signed the Submission Agreement: October 9, 2023.

Statement of Answer filed by Respondent on or about: November 30, 2023.  
LPL Financial LLC signed the Submission Agreement: November 20, 2023.

**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 request for expungement.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant (CRD Number 1674837) requested expungement of Occurrence Number 1217767 and any and all other relief that the Arbitrators deem just and equitable.

In the Statement of Answer, Respondent did not delineate any 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 or about June 29, 2024, Claimant advised that the customer in Occurrence Number 1217767 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. The Panel found that the Customer had notice of the expungement request and hearing.

The Panel conducted a recorded, telephonic hearing and by videoconference on September 9, 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 Claimant's request for expungement.

The Customer did not participate in the expungement hearing.

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 1217767 was not settled and, therefore, there was no settlement documentation to review.

The Panel relied upon the following documentary or other evidence: all pleadings comprising Arbitrators' Exhibit Number One; all other documents filed on the DR Portal; Claimant's direct testimony during the expungement hearing; and Respondent's statement that it supported Claimant's request for expungement.

### **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. The Panel awards the expungement of all references to Occurrence Number 1217767 from registration records maintained by the CRD for Claimant Steven Gary Prestly (CRD Number 1674837) with the understanding that, pursuant to Rule 2080, Claimant Steven Gary Prestly 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 findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The claim, allegation, or information is false.

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

The expungement was granted because the facts fit the factors of FINRA Rules 2080(b)(1)(A) (“Rule A”), 2080(b)(1)(B) (“Rule B”) and 2080(b)(1)(C) (“Rule C”).

#### Rule A

On or about August 23, 2004, the Customer filed a written complaint alleging unsuitable use of margin against Claimant. Claimant’s portfolio had come to Claimant from another Financial Advisor (“FA”) highly leveraged, and with no involvement at all by Claimant. Claimant offered advice as to ways to reduce the leverage. Claimant was not involved in the use of a margin in any way. Respondent denied the complaint. There was no follow-up by the Customer, and he dropped the matter. No further action was taken by the Customer. Thus, the Customer’s claim was factually impossible and clearly erroneous.

#### Rule B

Claimant was never involved in the use of a margin. It appears to have been done by the prior FA. Thus, the Customer’s claim was either false or erroneous in respect to Claimant.

#### Rule C

Without repeating the statements above in Rule A, the same facts and reasoning apply to Rule C. Here, too, the Panel found that the Customer’s claim is false in respect to Claimant.

### 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

**Postponement Fees**

Postponements granted during these proceedings for which fees were assessed or waived:

May 7, 2024, postponement requested by Parties	= \$	1,150.00
<b>Total Postponement Fees</b>	<b>= \$</b>	<b>1,150.00</b>

The Panel has assessed the total postponement fees to Claimant.

**Last-Minute Cancellation Fees**

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

May 7, 2024, cancellation requested by Parties	= \$	1,800.00
<b>Total Last-Minute Cancellation Fees</b>	<b>= \$</b>	<b>1,800.00</b>

The Panel has assessed the total last-minute cancellation 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 Panel @ \$1,150.00/session	= \$	1,150.00
Pre-Hearing Conference: January 29, 2024	1 session	
One (1) hearing session on expungement request @ \$1,150.00/session	= \$	1,150.00
Hearing: September 9, 2024	1 session	
<b>Total Hearing Session Fees</b>	<b>= \$</b>	<b>2,300.00</b>

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**

Harvey R. Linder	-	Public Arbitrator, Presiding Chairperson
Dexter Thomas Laughlin	-	Public Arbitrator
Margaret Verdery Little	-	Non-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**

***Harvey R. Linder***

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Harvey R. Linder  
Public Arbitrator, Presiding Chairperson

**09/11/2024**

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Signature Date

***Dexter Thomas Laughlin***

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Dexter Thomas Laughlin  
Public Arbitrator

**09/11/2024**

\_\_\_\_\_  
Signature Date

***Margaret Verdery Little***

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Margaret Verdery Little  
Non-Public Arbitrator

**09/11/2024**

\_\_\_\_\_  
Signature Date

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September 11, 2024

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