

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Leslie Lamar Keng

Case Number: 17-01737

vs.

Respondent
USAA and
USAA Financial Advisors, Inc.

Hearing Site: Dallas, Texas

Nature of the Dispute: Associated Person vs. Member and Non-Member

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant Leslie Lamar Keng (“Claimant”): W.D. Masterson, Esq., Kilgore & Kilgore, PLLC, Dallas, Texas.

For Respondent USAA Financial Advisors, Inc. (“Respondent”): David W. Erb, Esq. and Sarah Moffett, Esq., Fisher & Phillips, LLP, Westminster, Maryland.

Respondent USAA (“USAA”) did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: June 29, 2017.

Claimant signed the Submission Agreement: June 29, 2017.

Statement of Answer filed by Respondent on or about: September 14, 2017.

Respondent signed the Submission Agreement: September 14, 2017.

USAA declined to submit to FINRA’s jurisdiction on or about: September 14, 2017.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following cause of action: defamation. The cause of action related to Claimant’s allegation that the statements made by Respondent in Claimant’s Form U5, concerning Claimant’s discharge from his employment with Respondent, severely damaged Claimant’s personal and business reputation in the industry, as well as his business relationships with his financial advisory clients.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested compensatory damages in excess of \$4,000,000.00; punitive damages in excess of \$2,000,000.00; judgement for past and future loss of income, profits, bonuses, awards and other compensation, and benefits; judgement for other past and future pecuniary losses; pre-judgement and post-judgement interest at the maximum legal rate; costs; injunctive relief, temporary and permanent, ordering the expungement of all defamatory information contained in Claimant's Form U5, maintained by the Central Registration Depository ("CRD"); and such other and further relief to which Claimant may be justly entitled.

In the Statement of Answer, Respondent requested that the Panel deny Claimant's claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

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

USAA is not a member or associated person of FINRA and did not voluntarily submit to arbitration. Therefore, the Panel made no determination with respect to Claimant's claims against USAA.

On or about January 17, 2018, Respondent filed a Motion to Dismiss. On or about February 2, 2018, Claimant filed a Response in Opposition to the Motion to Dismiss. On or about February 28, 2018, Respondent filed its Reply in Support of the Motion to Dismiss and a Request for Hearing on the Motion to Dismiss. On or about April 16, 2018, the Panel heard oral arguments on Respondent's Motion to Dismiss. On April 19, 2018, the Panel denied Respondent's Motion to Dismiss pursuant to FINRA Rule 13504.

The Panel considered Claimant's request for expungement as part of the in-person, recorded, evidentiary hearing conducted in this matter.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimant's Form U4 and Form U5.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to Claimant the sum of \$1,950,000.00 compensatory damages to be paid on or before December 31, 2018.
2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the rate of 5% per annum from October 12, 2018 through and including the date this Award is paid in full.
3. Respondent is liable for and shall pay to Claimant the sum of \$7,432.43 in costs.
4. Respondent shall reimburse Claimant \$750.00 for the non-refundable portion of the initial claim filing fee previously paid to FINRA Office of Dispute Resolution.
5. The Panel recommends the expungement of the Reason for Termination and the Termination Explanation in Section 3 of Leslie Lamar Keng's (CRD# 3150463) Form U5 filed by Respondent on May 10, 2017, and maintained by the CRD. The Reason for Termination shall be changed to "Voluntary" and the Termination Explanation shall be left blank.

The Panel further recommends expungement of the "Yes" answer to Question 7F(1) on Leslie Lamar Keng's Form U5 filed by Respondent on May 10, 2017, and maintained by the CRD. The "Yes" answer shall be changed to "No" and the accompanying Termination Disclosure Reporting Page shall be deleted in its entirety.

These recommendations are based on the defamatory nature of the information and shall apply to any subsequent disclosures concerning this event. The registration records are not automatically amended to include the changes indicated above. Claimant Leslie Lamar Keng must forward a copy of this Award to FINRA's Registration and Disclosure Department for review.

6. Any and all claims for relief not specifically addressed herein, including punitive damages, injunctive relief, and attorneys' fees are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee	= \$ 2,250.00
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge	= \$ 3,600.00
Member Process Fee	= \$ 6,800.00

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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Respondent submitted (1) discovery-related motion

Total Discovery-Related Motion Fees	= \$ 200.00
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The Panel has assessed \$200.00 of the discovery-related motion fees to Respondent.

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), that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) pre-hearing sessions with the Panel @ \$1,500.00/session	= \$ 4,500.00
Pre-hearing conferences:	
December 7, 2017	1 session
April 12, 2018	1 session
April 16, 2018	1 session

Eight (8) hearing sessions with the Panel @ \$1,500.00/session	= \$ 12,000.00
Hearing Dates:	
October 9, 2018	2 sessions
October 10, 2018	2 sessions
October 11, 2018	2 sessions
October 12, 2018	2 sessions

Total Hearing Session Fees	= \$ 16,500.00
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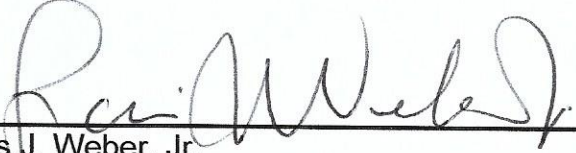
The Panel has assessed \$16,500.00 of the hearing session fees to Respondent. All balances are payable to FINRA Office of Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Louis J. Weber, Jr.	-	Public Arbitrator, Presiding Chairperson
Don G. Miller	-	Public Arbitrator
Todd R. Gough	-	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



Louis J. Weber, Jr.
Public Arbitrator, Presiding Chairperson

12/11/18
Signature Date

Don G. Miller
Public Arbitrator

Signature Date

Todd R. Gough
Non-Public Arbitrator

Signature Date

December 3, 2018

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

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