

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

[REDACTED]

Case Number:

[REDACTED]

vs.

Respondents

Wells Fargo Advisors, LLC
UBS Financial Services, Inc.

Hearing Site: Dallas, Texas

Nature of the Dispute: Associated Person vs. Members

REPRESENTATION OF PARTIES

For Claimant [REDACTED]: Docthor Kennedy, MBA, J.D. and Owen Hartnett, Esq., AdvisorLaw, LLC, Broomfield, Colorado.

For Respondent Wells Fargo Advisors, LLC ("Wells Fargo"): Michael Naccarato, Esq., Wells Fargo, St. Louis, Missouri.

For Respondent UBS Financial Services, Inc. ("UBS"): Jonathan C. Schwartz, Esq., Bressler, Amery & Ross, PC, Fort Lauderdale, Florida.

CASE INFORMATION

Statement of Claim filed on or about: September 8, 2016.

[REDACTED] signed the Submission Agreement: September 8, 2016.

Statement of Answer filed by Respondent UBS on or about: October 20, 2016.

UBS signed the Submission Agreement: December 12, 2016.

Statement of Answer filed by Respondent Wells Fargo on or about: October 28, 2016.

Wells Fargo signed the Submission Agreement: October 20, 2016.

CASE SUMMARY

Claimant asserted the cause of action of inaccurate reporting on his Central Registration Depository ("CRD") records. The cause of action relates to Respondents' settlement of several customer disputes concerning Auction Rate Securities and the corresponding disclosures that appear on Claimant's CRD records.

In their respective Statements of Answer, Respondents stated that they have no opposition to Claimant's request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested \$1.00 in compensatory damages, expungement of all references to Occurrence Numbers [REDACTED] [REDACTED] and [REDACTED] from his CRD records, and any and all other relief deemed just and equitable by the Arbitrator.

In its Statement of Answer, Respondent UBS did not delineate a relief request.

In its Statement of Answer, Respondent Wells Fargo did not delineate a relief request.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about December 9, 2016, Claimant filed a copy of the notification he sent to the underlying customers advising them of the date and time of the first expungement hearing scheduled in this matter and of their right to participate therein. None of the customers filed an objection to the expungement request and none participated in the expungement hearing.

On or about March 2, 2017, Claimant filed a copy of the notification he sent to the underlying customers advising them of the date and time of the second expungement hearing scheduled in this matter and of their right to participate therein. None of the customers filed an objection to the expungement request and none participated in the expungement hearing.

The Arbitrator conducted two recorded telephonic hearings on January 11, 2017, and March 13, 2017, so the parties could present oral argument and evidence on Claimant's request for expungement. Respondents did not participate in the expungement hearings and did not contest the requests for expungement.

Following the second expungement hearing conducted on March 13, 2017, the Arbitrator issued an Order directing Claimant to provide information reflecting that expungement of the Occurrence Numbers at issue have not been denied in any other FINRA arbitration. In compliance with the Arbitrator's Order, Claimant filed an Affidavit attesting to the fact that he has never requested nor been denied expungement in the FINRA, or any other, forum.

AWARD

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

1. The Arbitrator recommends the expungement of all references to Occurrence Numbers [REDACTED] from registration records maintained by the CRD for Claimant (CRD No. [REDACTED]), 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 13805 of the Code of Arbitration Procedure (the "Code"), the Arbitrator has made the following Rule 2080 affirmative finding of fact with respect to all three Occurrences reported on Claimant's CRD records:

The claim, allegation, or information is false.

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

The complaints filed by Claimant's customers were based on claims that said customers were not informed that the Auction Rate Securities recommended could become illiquid. Based on the testimony, the Auction Rate Securities were liquid at the time of purchase and Claimant did not guarantee the value of the product.

In making the above findings, the Arbitrator considered the pleadings and testimony at the expungement hearings as well as the lack of objection by any of the customers to Claimant's expungement request. Additionally, the Arbitrator reviewed Claimant's BrokerCheck® Report, the settlement agreements between Respondent UBS and the underlying customers (including the amount of payments made to any party and other relevant terms and conditions of the settlements), a relevant Declaration reflecting that settlement was not conditioned upon an agreement not to oppose Claimant's request for expungement and that Claimant did not contribute to the settlement amounts. The Arbitrator further reviewed the exhibits attached to the Statement of Claim reflecting settlements between Respondents and various regulatory bodies in connection with Auction Rate Securities.

2. Claimant's request for compensatory damages is denied.
3. Any and all relief not specifically addressed herein is 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 | = \$ 50.00 |
|--------------------------|------------|

**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 parties, Respondents UBS and Wells Fargo are each assessed the following:

Respondent UBS

Member Surcharge = \$ 150.00

Respondent Wells Fargo

Member Surcharge = \$ 150.00

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:

| | |
|---|-------------|
| Two (2) hearing sessions on expungement request @ \$50.00/session | = \$ 100.00 |
| Hearing Dates: January 11, 2017 | 1 session |
| March 13, 2017 | 1 session |

| | |
|----------------------------|-------------|
| Total Hearing Session Fees | = \$ 100.00 |
|----------------------------|-------------|

The Arbitrator has assessed the total hearing session fees of \$100.00 solely to Claimant.

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

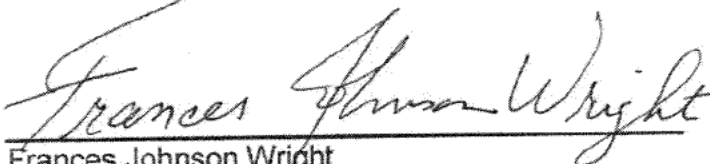
ARBITRATOR

Frances Johnson Wright

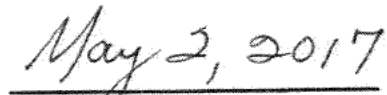
Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

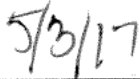
Arbitrator's Signature



Frances Johnson Wright
Sole Public Arbitrator



Signature Date



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