

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Wells Fargo Investments, LLC

Hearing Site: Las Vegas, Nevada

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant ██████████ (“Claimant”): Armin K. Sarabi, Esq. and
Dochtor Kennedy, MBA, J.D., AdvisorLaw, Broomfield, Colorado.

For Respondent Wells Fargo Investments, LLC (“Respondent”): Judy Louie, Esq.,
Senior Counsel, Wells Fargo Legal Department, Pasadena, California.

CASE INFORMATION

Statement of Claim filed on or about: November 21, 2017.

Claimant signed the Submission Agreement: November 21, 2017.

Statement of Answer filed by Respondent on or about: January 11, 2018.

Respondent signed the Submission Agreement: January 6, 2018.

CASE SUMMARY

Claimant asserted a claim seeking expungement of two customer complaints,
occurrence numbers ██████████ and ██████████ (“Underlying Complaints”) from his Central
Registration Depository (“CRD”) records.

In its Statement of Answer, Respondent advised that it has no objection nor opposition to
Claimant’s request for expungement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Complaints from his CRD record pursuant to
FINRA Rule 2080(b)(1)(A), as the claims, allegations, or information is factually

- impossible or clearly erroneous;
2. Expungement of the Underlying Complaints from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as the claims, allegations, or information is false;
 3. Damages in the amount of \$1.00 from Respondent; and
 4. Any and all other relief that the Arbitrator deems just and equitable.

Respondent did not set forth specific relief requests in its Statement of Answer.

OTHER ISSUES CONSIDERED AND DECIDED

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

On April 13, 2018, Claimant provided notice that the Statement of Claim and notice of the expungement hearing was served on the customer in occurrence number [REDACTED] ("Mr. S"). On the same date, Claimant submitted a copy of a LexisNexis Death Record for the customer in occurrence number [REDACTED] ("Mr. B"). Hereinafter Mr. S and Mr. B are collectively referred to as "Underlying Customers."

On April 27, 2018, Claimant filed an Affidavit of Service signed by Claimant's counsel advising that Mr. S was served with a copy of the Statement of Claim.

The Arbitrator conducted a recorded telephonic hearing on June 5, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and did not contest the request for expungement. The Arbitrator found that notice was served on Mr. S, but Mr. S did not participate in the expungement hearing.

At the evidentiary hearing, Claimant withdrew his request for \$1.00 of damages from Respondent.

The Arbitrator reviewed the BrokerCheck® Report for Claimant. The Arbitrator noted that the Underlying Complaints were both denied by Respondent and no further actions were taken by the Underlying Customers. Accordingly, the Underlying Complaints were not settled and there were no settlement documents to review.

The Arbitrator noted that Claimant did not previously file a claim requesting expungement of the same disclosures in the CRD.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony about the Underlying Customers, their investments and actions taken and Respondent's non objection to Claimant's expungement request. The Arbitrator was only presented with oral testimony as Respondent's counsel represented that Respondent searched for relevant customer records but was unable to locate any in its possession.

The parties present at the hearing have agreed that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, 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 the Underlying Complaints, occurrence numbers [REDACTED] and [REDACTED], from registration records maintained by the CRD, for Claimant [REDACTED]. (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, Claimant [REDACTED] 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 Arbitrator has made the following Rule 2080 affirmative findings of fact: the claim, allegation, or information is factually impossible or clearly erroneous.

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

Occurrence Number [REDACTED] (in which Mr. B was the customer)

The disputed investment was an open-ended tax-free municipal bond fund ("Fund") and Mr. B alleged that Claimant failed to follow instructions in respect of his investment in the Fund. Claimant testified that Mr. B did not specify which instruction was allegedly not followed.

Claimant made the Fund recommendation after he interviewed Mr. B and learned that Mr. B was elderly and in retirement and desired to supplement his income with tax-free income. The Fund does provide tax-free income and is a typical investment held by retirees—it is subject to market fluctuations based on interest rates. Claimant testified that Mr. B approved of the investment in the Fund and that there was no indication that Mr. B did not approve of the investment. However, the Fund was disposed of not long after it was acquired as Mr. B's niece convinced him to liquidate his investments with Claimant and move the funds to an account managed by his niece. Claimant testified that Mr. B instructed Claimant to dispose of the Fund. Thus, the decision to liquidate the Fund was made by Mr. B as a result of his niece's recommendation.

Respondent investigated the complaint at the time it was made and denied it on the basis that the Fund was suitable for Mr. B. Mr. B took no further action in this matter.

The Arbitrator finds that Mr. B's complaint that Claimant failed to follow instructions is clearly erroneous as both the purchase and disposition of the Fund were instructions provided by Mr. B.

Occurrence Number [REDACTED] (in which Mr. S was the customer)

The disputed investment was also a Fund and Mr. S alleged it was an unsuitable investment recommendation by Claimant.

Claimant made this recommendation after he interviewed Mr. S. and based the advice on the facts that Mr. S was starting retirement and desired to supplement his income with a reliable source of tax-free income; and that Mr. S was in retirement and did not have ready sources to replace principal. Mr. S had previously invested in First Trade Deeds (“FTDs”). FTDs pay higher rates of return but carry considerable risk as the underlying real estate properties carry a risk of default or non-performance. Claimant recommended the Fund investments over the FTDs as it provided regular tax-free income, and although the regular tax-free income came at a lower rate than with FTDs, the lower risk investment was better suited for someone in retirement. This was explained to Mr. S that the Fund provides tax-free income and is a typical investment held by retirees. Mr. S initially expressed satisfaction over the Fund investments but ultimately liquidated the Fund to move his money back to FTDs because he desired a higher monthly income.

Respondent investigated the complaint at the time it was made and denied it on the basis that the Fund was suitable for Mr. S. Mr. S took no further action in this matter.

Mr. S later told Claimant that he lost the funds he moved into the FTDs as they defaulted and did not perform. Thus, Claimant’s assertion that the Fund investments had a risk profile more appropriate for a retiree was borne out.

The Arbitrator finds that Mr. S’ complaint that Claimant made an unsuitable investment recommendation is clearly erroneous as investments such as the Fund were consistent and appropriate for Mr. S based on his stated investment objectives.

2. Any and all claims for relief not specifically addressed herein 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	= \$ 50.00
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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(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 = \$ 150.00

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:

One (1) pre-hearing session with a single arbitrator @ \$50.00/session = \$50.00
Pre-hearing conference: March 5, 2018 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$50.00
Hearing Date: June 5, 2018 1 session

Total Hearing Session Fees = \$100.00

The Panel has assessed \$100.00 of the hearing session fees to Claimant.

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

ARBITRATOR

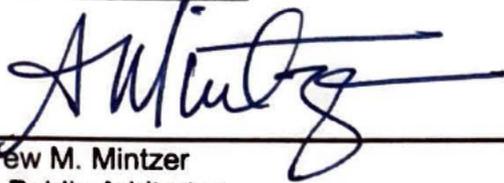
Andrew M. Mintzer

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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



Andrew M. Mintzer
Sole Public Arbitrator



Signature Date

June 12, 2018
Date of Service (For FINRA Office of Dispute Resolution office use only)