

**Award**  
**FINRA Office of Dispute Resolution**

---

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondents

Prudential Equity Group, LLC  
Wells Fargo Clearing Services, LLC

Hearing Site: Seattle, Washington

---

Nature of the Dispute: Associated Person vs. Members

**REPRESENTATION OF PARTIES**

For Claimant ██████████ (“Claimant”): Michael Bessette, Esq., HLBS Law, Westminster, Colorado in association with Dochter Kennedy, MBA, J.D., AdvisorLaw LLC, Broomfield, Colorado.

For Respondent Prudential Equity Group, LLC (“Prudential”): Alan S. Brodherson, Esq., Law Offices of Alan S. Brodherson, New York, New York.

For Respondent Wells Fargo Clearing Services, LLC (“Wells Fargo”): Matthew P. Fischer, Esq., Snell & Wilmer LLP, Phoenix, Arizona.

Hereinafter Prudential and Wells Fargo are collectively referred to as “Respondents.”

**CASE INFORMATION**

Statement of Claim filed on or about: January 2, 2018.  
Claimant signed the Submission Agreement: January 2, 2018.

Statement of Answer filed by Wells Fargo on or about: February 23, 2018.  
Wells Fargo signed the Submission Agreement: February 23, 2018.

Statement of Answer filed by Prudential on or about: February 23, 2018.  
Prudential did not sign the Submission Agreement.

**CASE SUMMARY**

Claimant asserted a claim seeking expungement of three customer complaints, occurrence numbers [REDACTED], [REDACTED], and [REDACTED] ("Underlying Complaints") from his Central Registration Depository ("CRD") records.

In the Statement of Answer, Wells Fargo advised that it does not oppose Claimant's request for expungement but opposes Claimant's request for damages.

In the Statement of Answer, Prudential advised that it took no position as 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 claim, allegation, or information is factually impossible or clearly erroneous;
2. Expungement of occurrence number [REDACTED] from his CRD record pursuant to FINRA Rule 2080(b)(1)(B), as Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds;
3. Expungement of the Underlying Complaints from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
4. Damages in the amount of \$1.00 from the Respondents; and
5. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Wells Fargo requested:

1. Claimant's request for \$1.00 in damages be denied; and
2. Any other and such further relief as the Arbitrator may deem just and proper under the circumstances.

In the Statement of Answer, Prudential requested:

3. Claimant's request for \$1.00 in damages be denied; and
4. The Arbitrator assess all forum fees for the hearing sessions in this matter against Claimant pursuant to Code of Arbitration Procedure ("Code") Rule 13805(d).

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrator acknowledges that they have each read the pleadings and other materials filed by the parties.

Prudential did not file with FINRA Office of Dispute Resolution a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim and appeared at the expungement hearing is bound by the determination of the Arbitrator on all issues submitted.

On June 15, 2018, Claimant provided notice that the Statement of Claim and notice of the expungement hearing was served on the customer in occurrence number [REDACTED] ("Ms. G") and the customer in occurrence number [REDACTED] ("Mr. A").

On the same date, Claimant also submitted an Affidavit of Claimant's counsel advising that Claimant was unable to locate the customer in occurrence number [REDACTED] ("Ms. L") in order to serve her with a copy of the Statement of Claim and notice of the expungement.

Hereinafter, Ms. G, Mr. A and Ms. L are collectively referred to as "Customers."

The Arbitrator conducted a recorded in-person hearing on July 24, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement. Counsel for Respondents appeared telephonically.

Respondents participated in the expungement hearing and did not contest the request for expungement. The Arbitrator found that Ms. G and Mr. A had notice of the Statement of Claim and the expungement hearing, but did not participate in the expungement hearing. The Arbitrator found that Claimant made a good faith attempt locate Ms. L.

At the expungement hearing, Claimant withdrew his request for \$1.00 in damages.

On August 15, 2018, the Arbitrator ordered Claimant and Prudential to produce any settlement documents related to the settlement in occurrence number [REDACTED].

On August 17, 2018, Claimant filed a response to the August 15 Order advising that Claimant had requested the settlement documents for occurrence number [REDACTED] from Prudential but Prudential had not been able to locate any documents and that Claimant searched his own records and could not locate any settlement documents. Claimant further advised that he was not involved in the settlement process and was not required to contribute to the settlement amount.

On August 29, 2018, Prudential filed a response to the August 15 Order advising that they were unable to locate any records regarding the settlement in occurrence number [REDACTED].

The Arbitrator was unable to review the settlement documents in occurrence number [REDACTED] as Claimant never had a copy of the settlement agreement because he did not contribute to it and Prudential searched its records and could not find a copy of the settlement agreement. Based upon the testimony and representations of Claimant, the Arbitrator considered the amount of payments made to any party and noted that Claimant did not contribute to the settlement amount and that the settlement was not conditioned on Claimant not opposing the request for expungement.

The Arbitrator determined that there were no settlements in occurrence numbers [REDACTED] and [REDACTED].

The Arbitrator reviewed the BrokerCheck® Report for Claimant.

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: facts set forth in the Statement of Claim and attached exhibits 1–8; testimony of the Claimant at the hearing; and the facts set forth in exhibits 12–23 of Claimant's Submission of Expungement Hearing Exhibits.

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, and 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 the Underlying Complaints, occurrence numbers [REDACTED], [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.

#### **Occurrence Number [REDACTED] (Ms. G)**

Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative findings of fact: the claim, allegation, or information is factually impossible or clearly erroneous; and the claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons: The trade was suitable and authorized and the product was recommended by the research department of the firm.

#### **Occurrence Number [REDACTED] (Ms. L)**

Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact: the registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The Arbitrator has made the above Rule 2080 findings based on the following reasons: Ms. L dealt with other brokers at the firm to handle her account, not Claimant.

#### **Occurrence Number [REDACTED] (Mr. A)**

Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative findings of fact: the claim, allegation, or information is factually impossible or clearly erroneous; and the claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons: A pre-programed trading platform put a stock in Mr. A's account that should not have been in his account since he was a senior executive of the company. As soon as the mistake was discovered, the stock was sold.

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
--------------------------	------------

*\*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, Wells Fargo is assessed the following:

Member Surcharge	= \$ 150.00
------------------	-------------

Accordingly, as a party, Prudential is assessed the following:

Member Surcharge	= \$ 150.00
------------------	-------------

#### **Postponement Fees**

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

June 19, 2018, postponement by Claimant	= waived
---	----------

#### **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 @ \$50.00/session	= \$50.00
Pre-hearing conference: April 24, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$50.00
Hearing Date: July 24, 2018 1 session	

---

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

The Arbitrator 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**

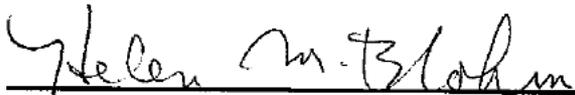
Helen Marinak Blohm

-

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**



Helen Marinak Blohm  
Sole Public Arbitrator

9/13/18

Signature Date

September 13, 2018

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