

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

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In the Matter of the Arbitration Between:

Claimant

██████████

Case Number: ██████████

vs.

Respondent

Prudential Equity Group, LLC

Hearing Site: Denver, Colorado

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████ (“Claimant”): Dochter Kennedy, MBA, J.D., and Michael O’Gara, Esq., AdvisorLaw, LLC, Broomfield, Colorado.

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

**CASE INFORMATION**

Statement of Claim filed on or about: January 30, 2018.  
Claimant signed the Submission Agreement: January 30, 2018.

Statement of Answer filed by Respondent on or about: March 27, 2018.  
Respondent did not sign the Submission Agreement.

**CASE SUMMARY**

Claimant asserted a claim seeking expungement of a customer complaint, occurrence number ██████████ (“Underlying Complaint”) from his Central Registration Depository (“CRD”) record.

In the Statement of Answer, Respondent advised that while it does not take a position as to Claimant’s request for expungement, it objects to Claimant’s request for compensatory damages.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Complaint 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 the Underlying Complaint from his CRD record pursuant to FINRA Rule 2080(b)(1)(C) as the claim, allegation, or information is false;
  3. Damages in the amount of \$1.00 from Respondent; and
  4. Any and all other relief the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. Denial of Claimant's request for an award of damages; and
2. All forum fees for hearing sessions in this matter be assessed against Claimant.

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

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

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

On September 17, 2018, Claimant provided notice that the Statement of Claim and notice of the expungement hearing was served on the customer in the Underlying Complaint ("Customer").

On October 3, 2018, Claimant submitted an Affidavit of Service signed by Claimant's counsel advising that the Customer was served with the Statement of Claim.

The Arbitrator conducted a recorded telephonic hearing on October 17, 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 oppose the request for expungement. The Customer did not appear at the expungement hearing. The Arbitrator found that the Customer had notice of the hearing.

The Arbitrator reviewed Claimant's BrokerCheck® Report.

The Arbitrator was unable to review the settlement documents, because Respondent has since terminated its business and the settlement documents are no longer available. The Arbitrator found that, based on Claimant's testimony, the settlement was not conditioned on Customer not opposing the request for expungement; and Claimant did not contribute to the settlement amount. Although the settlement amount was a significant proportion of the claim, the Arbitrator found that the settlement was made to maintain good will with the Customer, whose net worth was \$7 million. Furthermore, Claimant was not aware of the settlement, as the Customer did not complain to Claimant. Respondent conducted the settlement on its own.

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

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's CRD Snapshot Report; and Claimant's testimony regarding market conditions and his conduct in the sale to the Customer.

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 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 number [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 claim, allegation, or information is false.

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

The Underlying Complaint was filed in 1991, which was over 25 years ago. Accordingly, the settlement documents were not available for review as Respondent is no longer in business.

The Underlying Complaint is clearly erroneous and false because the Customer's loss in the Underlying Complaint was from market conditions. The Customer had invested in two limited partnerships, the securities which were the subject of the Underlying Complaint, two years before he filed the Underlying Complaint. The Customer was happy with his investments before the downturn of the market. Moreover, the Customer was a sophisticated investor. The Customer knew exactly what he was investing in, and Claimant did not make any misrepresentations to him. The Customer retained Claimant's services as a broker, even after filing the Underlying Complaint.

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
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### 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, including a pre-hearing conference with the arbitrator 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: May 15, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	=\$50.00
Hearing Date: October 17, 2018	1 session

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Total Hearing Session Fees	=\$100.00
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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.

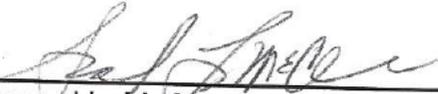
**ARBITRATOR**

Samuel L. McClaren

- 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**

  
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Samuel L. McClaren  
Sole Public Arbitrator

OCTOBER 31, 2018  
Signature Date

November 1, 2018  
Date of Service (For FINRA Office of Dispute Resolution office use only)