

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

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In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number ██████████

vs.

Respondent

Pruco Securities, LLC.

Hearing Site: Syracuse, New York

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████: Docthor Kennedy, MBA, J.D., AdvisorLaw LLC, Broomfield, Colorado, and Michael J. Bessette, Esq., HLBS Law, Westminster, Colorado.

For Respondent Pruco Securities, LLC.: Alan S. Brodherson, Esq., Law Offices of Alan S. Brodherson, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: May 24, 2018.

Claimant signed the Submission Agreement: May 24, 2018.

Statement of Answer filed by Respondent on or about: July 16, 2018.

Respondent did not sign the Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following cause of action: expungement.

In the Statement of Answer, Respondent did not oppose Claimant's expungement request.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of a customer complaint from his CRD records, compensatory damages of \$1.00, and any and all other relief as deemed just and equitable.

During the hearing, Claimant withdrew the request for compensatory damages.

In the Statement of Answer, Respondent requested that the request for compensatory damages be denied, and that all forum fees be assessed against Claimant.

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

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

Respondent 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 of Arbitration Procedure ("Code") and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Arbitrator on all issues submitted.

The Arbitrator conducted a recorded telephonic hearing on November 26, 2018 so that 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.

Claimant provided FINRA Office of Dispute Resolution with proof that he notified the customer in the underlying complaint of the expungement request and of his right to participate and testify at the expungement hearing and included a copy of the Statement of Claim with the notice.

The customer did not participate in the expungement hearing and did not contest the request for expungement.

The Arbitrator finds that the customer does not desire to participate in the expungement hearing and that a decision on the merits of Claimant's request can be entered.

The Arbitrator reviewed Claimant's BrokerCheck® Report and 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: the pleadings, Claimant's testimony, and the exhibits.

### **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 Occurrence Number [REDACTED] from registration records maintained by the Central Registration Depository ("CRD"), for Claimant [REDACTED] (CRD # [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, Claimant [REDACTED]

[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, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

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

The Claimant provided credible evidence supported by documentation that the investments were properly and accurately represented to the customer. The Claimant provided credible evidence of other options he recommended to the customer. The Claimant creditably testified that there was no loss to the account other than the customer withdrawing against the advice of the Claimant.

2. Any and all claims for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the Code of Arbitration Procedure, 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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent Pruco Securities, LLC 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 @ \$50.00/session		= \$ 50.00
Pre-hearing conference: September 19, 2018	1 session	

One (1) hearing session on expungement request @ \$50.00/session		= \$ 50.00
Hearing Date: November 26, 2018	1 session	

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Total Hearing Session Fees		= \$100.00
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The Arbitrator has assessed the hearing session fees of \$100.00 to Claimant.

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

**ARBITRATOR**


Diane Ciccone


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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

**Arbitrator's Signature**

  
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Diane Ciccone  
Sole Public Arbitrator

  
\_\_\_\_\_  
Signature Date

December 17, 2018

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