

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

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In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Sanford C. Bernstein & Co., LLC

Hearing Site: New York, New York

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████ Christopher Cummins, Esq. and Dochter Kennedy, Esq, AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Sanford C. Bernstein & Co., LLC: Daniel White, Esq., Milbank, Tweed, Hadley & McCloy, LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: June 13, 2018.

████████████████████ signed the Submission Agreement: June 13, 2018.

Statement of Answer filed by Respondent on or about: August 3, 2018.

Sanford C. Bernstein & Co., LLC signed the Submission Agreement: August 9, 2018.

**CASE SUMMARY**

Claimant asserted the following cause of action: expungement.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Claim 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 Claim from his CRD record pursuant to Rule 20809(b)(1)(C) as the claim, allegation, or information is false.
3. An award for compensatory damages in the amount of \$1.00 from the Respondent.
4. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer Respondent did not oppose expungement of customer dispute occurrence number [REDACTED] (the "Underlying Claim") from Claimant's CRD record pursuant to FINRA Rule 2080. Respondent denied the allegations set forth in Claimant's Statement of Claim to the extent that Claimant alleges that Respondent committed any wrongdoing or is otherwise liable to Claimant and/or the customers.

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

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

The Arbitrator conducted a recorded telephonic hearing on November 30, 2018 so the parties could present oral argument and evidence on [REDACTED] request for expungement.

Claimant withdrew his request for compensatory damages at the hearing.

Claimant provided the FINRA Office of Dispute Resolution with proof that he served the customer in the underlying complaint with notice of his expungement request and notice of the customer's right to participate and testify at the expungement hearing.

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

The Arbitrator noted that [REDACTED] 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 BrokerCheck® report, Claimant's testimony, and the settlement documents related to occurrence number [REDACTED]. The Arbitrator considered the amount of payments made to the customer, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlement was not conditioned on the customer not opposing the request for expungement. The Arbitrator also noted that Claimant did not contribute to the settlement amount.

## 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] 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 factually impossible or clearly erroneous.

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

The customer was an accredited investor with full discretion over his portfolio. He consistently disregarded Claimant's advice to reign in his spending, increase his position in bonds, reduce his exposure to hedge funds, and pay down his margin debt. Claimant acted appropriately within the scope of conventional financial practice.

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 event giving rise to the dispute. Accordingly, as a party, Respondent Sanford C. Bernstein & Co., 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 with a single arbitrator @ \$50.00/session	= \$ 50.00
Pre-hearing conference: October 19, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: November 30, 2018	1 session

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

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

**ARBITRATOR**

Alice E. Winkler

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Sole Public Arbitrator

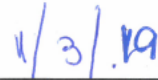
I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

**Arbitrator's Signature**



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Alice E. Winkler  
Sole Public Arbitrator



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Signature Date

**January 4, 2019**

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