

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
[REDACTED]

Case Number: [REDACTED]

vs.

Respondent
Wells Fargo Clearing Services, LLC

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [REDACTED] ([REDACTED] Michelle M. Atlas, Esq., HLBS Law, Westminster, Colorado.

For Respondent Wells Fargo Clearing Services, LLC ("Wells Fargo"): Patricia E. Cowart, Esq., Wells Fargo Legal Department, Fort Lauderdale, Florida.

CASE INFORMATION

Statement of Claim filed on or about: December 28, 2018.

[REDACTED] signed the Submission Agreement: December 28, 2018.

Amended Statement of Claim filed on or about: January 15, 2019.

Statement of Answer to Amended Statement of Claim filed by Respondent on or about: March 7, 2019.

Wells Fargo Clearing Services, LLC signed the Submission Agreement: January 22, 2019.

CASE SUMMARY

In the Statement of Claim, as amended, Claimant asserted the cause of action of inaccurate reporting on his Central Registration Depository ("CRD") records. The cause of action relates to one Customer written complaint (Occurrence No. [REDACTED] one Customer complaint filed with the Circuit Court of the Eleventh Judicial Circuit (Occurrence No. [REDACTED] and one arbitration (Case No. 17-[REDACTED]/Occurrence No. [REDACTED]. The dispute in Occurrence No. [REDACTED] involved the Customer's investment in Unit Investment Trusts containing blue-chip and dividend-paying U.S. stock. The dispute in Occurrence No. [REDACTED] involved the Customer's associates' deposited monies with Wells Fargo Bank. The dispute in Occurrence No. [REDACTED] involved the Customer's investment in fixed income Unit Investment Trusts, specifically Investment

Grade Select, Strategic Income, Senior Loan, and Global Bonds.

In its Statement of Answer to the Amended Statement of Claim, Respondent stated that it does not object to the expungement of all references to Occurrence Nos. [REDACTED] and [REDACTED] from Claimant's CRD records.

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested: expungement of all references to Occurrence Nos. [REDACTED] [REDACTED] and [REDACTED] from his CRD records; damages in the amount of \$1.00; and any and all other relief deemed just and equitable by the Arbitrator.

In its Statement of Answer to the Amended Statement of Claim, Respondent requested denial of Claimant's request for compensatory damages.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about January 15, 2019, prior to the appointment of the sole Arbitrator, Claimant filed an Amended Statement of Claim to include additional factual background and remove the Exhibits that were attached to the original Statement of Claim.

On or about August 2, 2019, Claimant served the underlying Customers from Occurrence Nos. [REDACTED] and [REDACTED] with a copy of the Amended Statement of Claim together with notice of the date and time of the expungement hearing and of their right to participate therein.

On or about August 2, 2019, a representative from Claimant's counsel's office filed a signed Affidavit affirming the efforts made to serve the underlying Customers in Occurrence No. [REDACTED] with a copy of the Statement of Claim together with notice of the date and time of the expungement hearing and of their right to participate therein. These efforts included reviewing all the documents and information in Claimant's counsel's possession, as well as, requesting any relevant information, including the last known address, for all remaining Customers from Respondent. According to the signed Affidavit, Claimant's counsel exhausted all avenues from which to obtain the information needed to serve the underlying Customers in Occurrence No. [REDACTED] with a copy of the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded telephonic hearing on September 3, 2019, so the parties could present oral argument and evidence on Claimant's request for expungement.

The underlying Customers in Occurrence Nos. [REDACTED] and [REDACTED] did not file any response or objection to Claimant's request for expungement and did not participate in the expungement hearing.

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

The Arbitrator reviewed the BrokerCheck® Report for Claimant and noted that Claimant did not previously file a claim requesting expungement of the same disclosures in the CRD.

The Arbitrator reviewed the settlement documents for Occurrence Nos. [REDACTED] and [REDACTED] considered the amount of payments made to any party, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on Claimant not opposing the request for expungement and that Claimant did not contribute to the settlement amounts.

In recommending expungement the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim; Respondent's Statement of Answer; Claimant's testimony; Respondent's October 19, 2016, response letter to the underlying Customer in Occurrence No. [REDACTED] and the Settlement Agreements pertaining to the underlying Customers in Occurrence Nos. [REDACTED] and [REDACTED]

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), 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 Nos. [REDACTED], [REDACTED] and [REDACTED] from the registration records maintained by the CRD, for Claimant [REDACTED] (CRD No. [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.

Statement Common to All Occurrence Numbers:

Pursuant to Rule 13805 of the Code of Arbitration Procedure (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:

As to Occurrence No. [REDACTED] Claimant responded to all questions in a straightforward, credible manner and explained that Claimant's investments in high-grade Unit Investment Trusts met the Customer's risk profile. In addition, Respondent reviewed, and denied, the underlying Customer's written complaint, which the Customer did not pursue beyond that point and the matter was closed. The Arbitrator also reviewed Claimant's Broker Check, which reflected that there was no settlement between Claimant and the underlying Customer.

As to Occurrence No. [REDACTED] Claimant was simply called upon to explain an investment vehicle as part of a transaction the underlying Customer was doing with Wells Fargo Bank (not Respondent Wells Fargo Clearing Services, LLC). Claimant had no other contact with the underlying Customer. The Customer complaint that was filed with the Circuit Court was settled by Wells Fargo Bank, but neither Claimant nor Respondent contributed to the settlement.

As to Occurrence No. [REDACTED] Claimant responded to all questions in a straightforward, credible manner and explained that Claimant's investments in high-grade Unit Investment Trusts met the Customer's risk profile. The Customer approved all investments. The claim was settled by Respondent for a de minimis amount in order to avoid the cost of arbitration. Claimant did not contribute to the settlement.

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 Wells Fargo 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(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: May 21, 2019	1 session

ARBITRATOR

Carl Shechter

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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

Carl Shechter

Carl Shechter
Sole Public Arbitrator

09/10/2019

Signature Date

September 10, 2019

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