

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

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In the Matter of the Arbitration Between:

Claimant(s)

████████████████████

Case Number ██████████

vs.

Respondent(s)

SA Stone Wealth Management Inc.

Hearing Site: Philadelphia, Pennsylvania

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████: Christopher Cummins, Esq., AdvisorLaw LLC,  
Westminister, Colorado.

For Respondent SA Stone Wealth Management Inc.: Andrew R. Chambless, Esq., SA  
Stone Wealth Management Inc., Birmingham, Alabama.

**CASE INFORMATION**

Statement of Claim filed on or about: April 30, 2018.

████████████████████ signed the Submission Agreement: April 30, 2018.

Statement of Answer filed by Respondent on or about: June 19, 2018

SA Stone Wealth Management Inc. signed the Submission Agreement: June 19, 2018.

**CASE SUMMARY**

Claimant asserted the following causes of action: expungement.

Respondent did not oppose Claimant's request for expungement and denied any  
allegations of wrongdoing.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested: expungement of occurrence number [REDACTED] from his CRD records; compensatory damages in the amount of \$1.00; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not oppose Claimant's request for expungement. Respondent requested that the Arbitrator deny Claimant's request for \$1.00 in compensatory damages.

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

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

On December 4, 2018, the Arbitrator conducted a recorded telephonic hearing so the parties could present oral argument and evidence on Claimant [REDACTED] request for expungement.

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

Claimant provided FINRA Office of Dispute Resolution with proof that the customer related to occurrence number [REDACTED] was notified of the expungement request and of their right to participate and testify at the expungement hearing. Claimant also provided an Affidavit of Service indicating that the customer was served with the Statement of Claim via Certified Mail.

The Arbitrator notes that the customer did not attend the hearing or contest the request for expungement.

The Arbitrator reviewed the BrokerCheck® Report for [REDACTED] and the settlement documents, considered the amount of payments made to the customer, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the customer not opposing the request for expungement. The Arbitrator also noted that [REDACTED] did not contribute to the settlement amount.

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: all pleadings, party submissions, Claimant's BrokerCheck® Report, the testimony of Claimant, and Claimant's post-hearing submissions.

## AWARD

After considering the pleadings, the testimony and evidence provided by the parties and 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 the 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 false.

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

The customer alleged lack of investment performance. This allegation is false. The Claimant did not promise/guarantee the customer any rate of return that the investment would not lose money or that his recommendation would outperform another Financial Advisor, or that any sub-account of any product would outperform any other available investment. The evidence does not support a lack of investment performance. The evidence does not support a lack of investment performance as a result of Claimant's actions or inactions.

The customer was aware of the benefits and risks associated with the Allianz Annuity. She signed a (1) Variable Products Disclosure form (addressing receipt of prospectus, Risk of Investing-no guarantees, Characteristics of a Variable Product, Surrender Charges) (Exhibit 4, 14); (2) Variable Annuity Disclosure form (addressing receipt of prospectus, no guarantee that the variable product will perform better, worse or similar to other equity investments being considered, surrender charges)(Exhibit 4, 14); (3) Variable Annuity Acknowledgement (addressing receipt of prospectus, variable annuities are not FDIC insured or guaranteed, fluctuation in investment values including risks of possible loss of principal, surrender charges) (Exhibit 4, 13); (4) Wessell Capital Group-Allianz Annuity (indicating customer's risk tolerance as "moderate", discussing surrender fees, advising the review of the prospectus) (Exhibit 4, 18);(5) Statement of Disclosure and Product Suitability for products/investments not requiring a prospectus (customer acknowledging that all of the advantages and disadvantages of US Allianz Alterity product has been fully explained.)(Exhibit 4). Based upon testimony of Claimant and the documentation signed by the customer, customer was made aware of the benefits and risks

associated with the Allianz investment and should not have had an expectation of any type of guaranteed investment performance from the broker. The customer's account was negatively affected by her withdrawals to fund a business (fish store) against the advice of the Claimant and the market economic downturn in 2007 - 2008, not by any lack of performance by Claimant.

The customer was aware of the benefits and risks associated with the Jackson Annuity. The Customer signed a Jackson Application (Exhibit 9) in which she acknowledged (1) understanding that annuity benefits, death benefit values, and withdrawal values, if any, when based on the investment experience of an Investment Division in the separate account of Jackson, are variable and may be increased or decreased, and the dollar amounts are not guaranteed, (2) receiving a prospectus, (3) the contract she applied for is suitable for her insurance/investment objectives, financial situation and needs. Claimant also signed an Acknowledgement stating that he has fully explained the Contract to the client, including contract restrictions and charges and he believes that this transaction is suitable given the client's financial situation and needs. Additionally, Claimant made the customer aware of surrender period and charges associated with the Jackson annuity. The customer also signed the Sterne Agee New Account Application, in which she certified that (1) she understood that unless noted to the contrary in writing, investments are not FDIC insured, are not obligations of a bank, and are subject to investment risks, including the possible loss of the principal amount invested, (2) she received a copy of the Schedule of Fees, and understood that the fees may change from time to time, and she agreed to be bound by such changes. Exhibit 17 Variable Annuity Analysis form, initialed by the customer sets forth a Surrender Charges Schedule. Although the customer initially stated that she would not continue to withdraw funds that had been set aside for retirement to further invest in the business (fish store), she continued to do so against the advice of Claimant. For example, on May 7, 2017, the customer withdrew approximately \$20,500.00 Exhibit 12. Based upon testimony of Claimant and the documentation signed by the customer, the customer was made aware of the benefits and risks associated with the Jackson investment and should not have had an expectation of any type of guaranteed investment performance from the broker. Further, the customer was aware of the surrender charges. The customer's account was negatively affected by her withdrawals to fund a business against the advice of the Claimant, and not by any lack of performance by Claimant. If the customer's \$20,500.00 withdrawal was added back in to her account, there was actually a gain of \$22,136.50 on the account, which equates to an annualized return rate of approximately 4.75% annum for the 2.75 years in which the Jackson investment was held.

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 SA Stone Wealth Management, Inc. 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: August 30, 2018                      1 session	

One (1) hearing session on expungement request @ \$50.00/session	=\$ 50.00
Hearing Date: December 4, 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**

Carol H. Gold

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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**



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Carol H. Gold  
Sole Public Arbitrator



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

**February 25, 2019**

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