





[REDACTED] (FINRA Arbitration Case [REDACTED]), [REDACTED] (FINRA Arbitration Case [REDACTED]), [REDACTED] (FINRA Arbitration Case [REDACTED]), [REDACTED] (FINRA Arbitration Case [REDACTED]), [REDACTED] (FINRA Arbitration Case [REDACTED]) and [REDACTED] from his CRD records; compensatory damages in the amount of \$1.00; and any and all other relief deemed just and equitable by the Arbitrator.

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

In the Statement of Answer, Respondent did not delineate a relief request.

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

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

On or about November 5, 2018, Claimant filed with FINRA Office of Dispute Resolution proof of service of the Statement of Claim and notice of the hearing upon all but three of Claimant's customers in the Occurrences. None of the customers served submitted a written response thereto. The Arbitrator noted that although many of the underlying arbitrations were brought by multiple customers, the customers who held their accounts with Claimant were notified of these expungement proceedings. All other customers held their accounts with other financial advisors at Morgan Keegan and Company, Inc.

The Arbitrator conducted recorded telephonic hearings on November 14, 2018 and November 15, 2018, so the parties could present oral argument and evidence on Claimant's request for expungement. Neither the Respondent nor any of the underlying customers participated in the expungement hearing nor did they contest the request for expungement.

On or about November 27, 2018, Claimant filed with FINRA Office of Dispute Resolution correspondence detailing the efforts made to serve two underlying customers in this matter along with an Affidavit advising counsel was unable to locate the contact information for one of the underlying customers in Occurrence No. [REDACTED] and one of the underlying customers in Occurrence No. [REDACTED]. On November 29, 2018, the Chair issued a directive that instructed Claimant to take further action to complete service on the three underlying customers that had not previously been served and that these customers were to be provided with fourteen days to respond once served.

On or about December 7, 2018, in response to the Chair's directive, Claimant submitted a Death Record for the underlying customer in Occurrence No. [REDACTED] and an Affidavit stating that Claimant had exhausted all avenues in which to serve this customer; a service letter to the customer in Occurrence No. [REDACTED]; and a service letter to the customer in Occurrence No. [REDACTED]. Neither of the customers in Occurrence Nos. [REDACTED] and [REDACTED] submitted a response to Claimant's notice. The Chair determined that Claimant's attempts satisfy the service requirement.

The Arbitrator reviewed the BrokerCheck® Report for Claimant and the settlement documents and releases for Occurrence Nos. [REDACTED], [REDACTED], [REDACTED], [REDACTED],

[REDACTED], [REDACTED], [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 the customers not opposing the request for expungement; that Claimant did not contribute to the settlement amounts; and that Claimant did not previously file a claim requesting expungement of the same disclosures in the CRD. No settlement occurred in Occurrence Nos. [REDACTED] and [REDACTED].

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings; the Statements of Claim and Answers in the underlying arbitrations; Exhibits 11, 13, 15, 18, 21, 25, 28, 30 and 39 to the Statement of Claim; testimony regarding the firm's handling of the settlements; letter of complaint of the customer in Occurrence No. [REDACTED] to the Respondent firm dated January 5, 2013; and Claimant's direct examination and testimony at the telephonic expungement hearings.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the recorded telephonic expungement hearings, 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 the Occurrences from registration records maintained by the CRD, for Claimant [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, Claimant 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 (the "Code"), the Arbitrator has made the following Rule 2080 affirmative finding of fact as to all Occurrences:

The claims, allegations, or information are false.

The Arbitrator has made the above Rule 2080 finding based on the following reasons as to all Occurrences:

The issues raised by the customers in the Occurrences were misrepresentation and unsuitability. While there were losses in the accounts herein, there was no wrongdoing on the part of Claimant and the allegations of misrepresentation and unsuitability are false. The Arbitrator found that at the time of purchase, the goals, objectives, risk tolerance and the time horizons were fully disclosed and understood by the underlying customers. Claimant's testimony was consistent regarding the operational practices of Claimant, and the handling of the individual accounts. The customers' opening account statements and the goals of the customers' were

reviewed along with Claimant's testimony. The customers were advised that past performance was not a guarantee of valuation, and they were provided with written materials. Claimant was not a named party in any of the underlying arbitrations in Occurrences [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED], and Claimant never contributed to any settlements. Therefore, the Arbitrator concluded that Claimant should be granted expungement of the charges set forth by the customers in all underlying Occurrences.

### **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(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: August 29, 2018	1 session
Two (2) hearing sessions on expungement request @ \$50.00/session	= \$ 100.00
Hearing Dates: November 14, 2018	1 session
November 15, 2018	1 session

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Total Hearing Session Fees	= \$ 150.00
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The Arbitrator has assessed the total hearing session fees of \$150.00 to Claimant.

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

**ARBITRATOR**

Frances Johnson Wright

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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**



Frances Johnson Wright  
Sole Public Arbitrator

1/14/19

Signature Date

January 15, 2019

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