

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

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In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Wells Fargo Clearing Services, LLC

Hearing Site: Boston, Massachusetts

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

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

For Respondent Wells Fargo Clearing Services, LLC: Michael Naccarato, Esq., Wells Fargo Legal Department, St. Louis, Missouri.

**CASE INFORMATION**

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

████████████████████ signed the Submission Agreement: May 24, 2018.

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

Wells Fargo Clearing Services, LLC signed the Submission Agreement: July 16, 2018.

**CASE SUMMARY**

Claimant asserted the following cause of action: expungement.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested the following:

1. expungement of occurrence number ██████████ from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(A) as the claim, allegations, or information is factually impossible or clearly erroneous;
2. expungement of occurrence number ██████████ Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(C) as the claim, allegations, or information is false;
3. an award of compensatory damages in the amount of \$1.00; and
4. any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not object to Claimant's request for expungement.

At the hearing, Claimant withdrew his request for compensatory damages.

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

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

Claimant provided FINRA Office of Dispute Resolution with proof that he notified the customer related to occurrence number [REDACTED] 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 Arbitrator conducted a recorded telephonic expungement hearing on December 5, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

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

Respondent participated in the expungement hearing, but did not contest the request for expungement.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim, Respondent's Statement of Answer, [REDACTED] BrokerCheck® Report, and the testimony and evidence presented at the telephonic expungement hearing.

The Arbitrator noted that [REDACTED] did not previously file a claim requesting expungement of the same disclosure in the CRD.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

### **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 [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, [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 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:

The customer claimed that he never signed the agreement to open an account and that Claimant made trades without his authorization. The uncontested evidence shows that the customer did in fact establish the account and authorized the trades. Most specifically, on December 18, 2015, the customer signed a Customer Account Transfer form. For these reasons, the customer's allegation concerning Claimant was factually impossible, clearly erroneous and false.

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(s) giving rise to the dispute. Accordingly, as a party, Wells Fargo Clearing Services, 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) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: December 5, 2018 1 session	
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Total Hearing Session Fees	= \$ 50.00

The Arbitrator has assessed that \$50.00 hearing session fees to Claimant.

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

**ARBITRATOR**

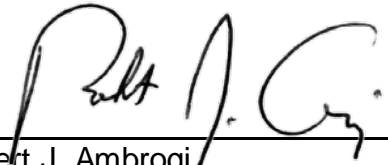
Robert J. Ambrogi

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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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Robert J. Ambrogi  
Sole Public Arbitrator

January 16, 2019  
\_\_\_\_\_  
Signature Date

**January 18, 2019**

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