

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

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In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondents

A. G. Edwards & Sons, Inc.  
Wells Fargo Clearing Services, LLC

Hearing Site: Boston, Massachusetts

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Nature of the Dispute: Associated Person vs. Members

**REPRESENTATION OF PARTIES**

For Claimant ██████████ Harris Friedman, Esq., AdvisorLaw, LLC,  
Westminster, Colorado.

For Respondents A. G. Edwards & Sons, Inc., and Wells Fargo Clearing Services, LLC:  
Demian J. Betz, Esq., Wells Fargo Law Department, Charlotte, North Carolina.

**CASE INFORMATION**

Statement of Claim filed on or about: June 11, 2018.

████████████████████ signed the Submission Agreement: June 11, 2018.

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

A. G. Edwards & Sons, Inc. signed the Submission Agreement: August 3, 2018.

Wells Fargo Clearing Services, LLC signed the Submission Agreement: August 3, 2018.

**CASE SUMMARY**

Claimant asserted the following causes of action: expungement of Occurrence Numbers  
██████████ and ██████████

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of the Occurrence Numbers [REDACTED] and [REDACTED] from his CRD record pursuant to FINRA Rule 2080(b)(1)(A), as the claims allegations, or information is factually impossible or clearly erroneous; expungement of the Occurrences from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as the claims, allegations, or information is false; an award of damages in the amount of \$1.00 from the Respondents, and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondents took no position regarding Claimant's requested expungement relief and the substantive allegations made by Claimant in support of said relief.

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

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

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

The Arbitrator conducted a recorded telephonic hearing on March 4, 2019 so the parties could present oral argument and evidence on [REDACTED] request for expungement.

Claimant provided FINRA Office of Dispute Resolution with proof that he notified the customers in the underlying Occurrence Numbers [REDACTED] and [REDACTED] of the expungement request and of their right to participate and testify at the expungement hearing and included a copy of the Statement of Claim with the notice.

The customers for the Underlying Occurrence Numbers [REDACTED] and [REDACTED] did not participate in the expungement hearing and did not contest the request for expungement.

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

In recommending expungement the Arbitrator relied upon the following documentary or other evidence: the pleadings, Claimant's BrokerCheck® Report and Claimant's testimony.

## 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 false.

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

The customer's daughter-in-law alleged unsuitability and churning on behalf of the customer despite the Claimant's 12 year history with the customer without apparent complaint from the customer with respect to his handling of her account. The customer's account was self-directed, requiring her approval of all trades. As a result of the 2000 tech bubble she suffered losses that were not inconsistent with others holding investments consistent with her risk profile; in fact no payment was ever made and no claim was ever filed.

2. 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 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:

From 1998 through 2010 the customer was a client of Claimant [REDACTED]. In 2010, the customer complained to Wells Fargo Clearing Services, LLC that [REDACTED] promised returns of 10% which were not realized and therefore a settlement in an unspecified amount was in order. Later in correspondence labeled exhibits 4, 5, and 6, the customer corrected and clarified his earlier complaint stating that it was not [REDACTED] that promised 10% returns, but rather, it was a successor broker.

Therefore, the broker being misnamed, and upon hearing the testimony, viewing the BrokerCheck® Report and exhibits, the Arbitrator finds the allegation to have been clearly erroneous and false with respect to Claimant [REDACTED].

3. Any and all claims for relief not specifically addressed herein is 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 firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as parties, Respondent A.G. Edwards & Sons, Inc. and Wells Fargo Clearing Services, LLC are each assessed the following:

Member Surcharge	= \$ 150.00
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**Postponement Fees**

Postponements granted during these proceedings for which fees were assessed or waived:

December 13, 2018 postponement by Claimant.	= \$ 50.00
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Total Postponements Fees	= \$ 50.00

The Arbitrator assessed the \$50.00 postponement fees to the Claimant.

**Last Minute Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within ten calendar days before the start of a scheduled hearing session:

December 13, 2018 postponement requested by Claimant	= \$600.00
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Total Last Minute Cancellation Fees	= \$600.00

The Arbitrator assessed the \$600.00 last minute cancellation fees to the Claimant.

**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 2, 2018	1 session
One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: March 4, 2019	1 session
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Total Hearing Session Fees	= \$100.00

The Arbitrator assessed the \$100.00 hearing session fees to the Claimant.

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

**ARBITRATOR**

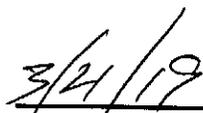
Gerard S. Marsan

- 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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Gerard S. Marsan  
Sole Public Arbitrator

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

**March 22, 2019**

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