

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: Philadelphia, Pennsylvania

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [REDACTED]: Christopher Cummins, Esq., AdvisorLaw, LLC, Westminster, Colorado.

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

CASE INFORMATION

Statement of Claim filed on or about: March 9, 2018.

[REDACTED] signed the Submission Agreement: March 9, 2018.

Statement of Answer filed by Respondent on or about: May 3, 2018.

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

CASE SUMMARY

Claimant asserted the following causes of action: Expungement.

In the Statement of Answer, Respondent did not object to the relief sought by Claimant.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of the occurrences from his CRD record pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous.
2. Expungement of the occurrences from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false.

3. An award of damages in the amount of \$1.00 from the Respondent.
4. Any and all other relief that the Arbitrator deems just and equitable.

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 November 19, 2018 so the parties could present oral argument and evidence on [REDACTED] request for expungement.

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

On October 29, 2018 and November 19, 2018 Claimant provided FINRA Office of Dispute Resolution with proof that he notified the customers in the underlying complaint 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. In addition Claimant provided proof that the customer for Occurrence number [REDACTED] is deceased.

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

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

The Arbitrator did not review the settlement document for Occurrence # [REDACTED]. The Claimant was unable to provide the settlement agreement, but from the Claimant's and Respondent's testimony, including the consent of the attorney for the Respondent in favor of expungement, the Arbitrator noted that Claimant did not contribute to the settlement and that the settlement was not conditioned on the customer not opposing the request for expungement.

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. Claimant's request for compensatory damages is denied.
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 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 mutual funds proposed to the customers were thoroughly explained and they agreed to invest in them. After a short period of time (less than 1 year), the customers mother began calling the Claimant to say that the customers needed the sum invested for taxes. Finally, the customers directed the sale of the mutual funds, incurring penalties and counsel fees. There had been a general market decline at the time the liquidation was directed which, together with the penalties for early withdrawal, caused the bulk of the loss. [REDACTED] testimony on this matter was comprehensive and convincing.

3. 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 false.

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

The customer bought a stock based on advice from a friend. The firm did not follow that stock and made no recommendation. The customer sold the stock on her own initiative, at a time when the market had dropped significantly. [REDACTED] gave no advice to the customer and she maintained her account even after incurring the loss and making her claim.

4. 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 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) pre-hearing session with a single arbitrator @ \$50.00/session	= \$ 50.00
Pre-hearing conference: July 6, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: November 19, 2018	1 session

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

Steven T. Stern

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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



Steven T. Stern
Sole Public Arbitrator

12/27/18

Signature Date

January 4, 2019

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