

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant

Henry Stern, as Trustee of the Trust U/W of Salli Stern

Case Number: 20-01019

vs.

Respondent

Wells Fargo Clearing Services, LLC

Hearing Site: Boca Raton, Florida

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Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Customer vs. Member

This case was decided by an all-public panel.

**REPRESENTATION OF PARTIES**

For Claimant Henry Stern, as Trustee of the Trust U/W of Salli Stern: Edward H. Glenn, Esq., Zamansky, LLC, New York, New York.

For Respondent Wells Fargo Clearing Services, LLC (“Wells Fargo”): Nuviah Shirazi, Esq., Wells Fargo Legal Department, St. Louis, Missouri.

\*FINRA recorded the appearance of Claimant’s counsel at the time of filing of the Statement of Claim. Counsel’s representation of Claimant may have ended with the parties’ settlement. Please see the Other Issues Considered and Decided section of this Award for information on whether Claimant’s counsel appeared at the expungement hearing.

**CASE INFORMATION**

Statement of Claim filed on or about: March 27, 2020.

Henry Stern as Trustee signed the Submission Agreement: March 27, 2020.

Statement of Answer filed by Respondent on or about: May 19, 2020.

Wells Fargo signed the Submission Agreement: May 19, 2020.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: securities fraud; common law fraud; fraudulent misrepresentation and omission; unsuitability; unauthorized trading; excessive trading; unsuitable overconcentration; breach of fiduciary duty; breach of contract; negligence and failure to supervise in violations of federal securities laws, FINRA Rules, Florida Securities laws (§517 et seq.), and applicable common law. The causes of action relate to the purchase of options in Claimant's trust account.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested: equitable rescission of the purchases; compensatory damages of approximately \$1,000,000.00; interest; well-managed account damages; recovery of all costs; attorneys' fees; expert fees; forum fees; and punitive damages.

In the Statement of Answer, Respondent requested: dismissal of the Statement of Claim in its entirety with prejudice; costs and expenses; and, such other and further relief as was just and proper.

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

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On December 15, 2020, Respondent filed with FINRA Dispute Resolution Services a notice of settlement and requested that the file remain open, so that Respondent may request expungement on behalf of Unnamed Party Jordan David Samelson ("Samelson").

On January 11, 2021, Respondent filed a Motion for Expungement of all references to this arbitration from Unnamed Party Samelson's Central Registration Depository ("CRD") records, to which no response was filed.

The Panel conducted a recorded, telephonic hearing on February 17, 2021, so the parties could present oral argument and evidence on Respondent's request for expungement on behalf of Unnamed Party Samelson.

Claimant and counsel did not participate in the expungement hearing.

On February 23, 2021, Claimant filed with FINRA Dispute Resolution Services a notice of settlement. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

The Award in this matter may be executed in counterpart copies.

**AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent’s request for expungement of the above-captioned arbitration (Occurrence Number 2068658) from Unnamed Party Samelson’s (CRD Number 2984356) registration records maintained by the CRD is denied.
2. Any and all claims for relief not specifically addressed herein, including Claimant’s requests for punitive damages and attorneys’ fees, are denied.

**FEES**

Pursuant to the Code of Arbitration Procedure (“Code”), the following fees are assessed:

**Filing Fees**

FINRA Dispute Resolution Services assessed a filing fee\* for each claim:

Initial Claim Filing Fee = \$ 1,725.00

\*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 giving rise to the dispute. Accordingly, as a party, Respondent Wells Fargo is assessed the following:

Member Surcharge = \$ 2,475.00

Member Process Fee = \$ 5,075.00

**Hearing Session Fees and Assessments**

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ \$1,300.00/session = \$ 1,300.00

Pre-Hearing Conference: July 17, 2020 1 session

One (1) hearing session on expungement request @ \$1,300.00/session = \$ 1,300.00

Hearing: February 17, 2021 1 session

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Total Hearing Session Fees = \$ 2,600.00

The Panel has assessed \$650.00 of the hearing session fees to Claimant.

The Panel has assessed \$1,950.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Paul J. Burkhart	-	Public Arbitrator, Presiding Chairperson
Leslie L. Cooney	-	Public Arbitrator
Margo Denise Wright	-	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.

**Concurring Arbitrators' Signatures**

***Paul J. Burkhart***

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Paul J. Burkhart  
Public Arbitrator, Presiding Chairperson

***02/24/2021***

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

***Leslie L. Cooney***

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Leslie L. Cooney  
Public Arbitrator

***02/24/2021***

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

***Margo Denise Wright***

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Margo Denise Wright  
Public Arbitrator

***02/24/2021***

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Signature Date

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February 24, 2021

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Date of Service (For FINRA Dispute Resolution Services use only)