

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Nora Virginia Castro

Case Number: 20-01278

vs.

Respondent
Wells Fargo Clearing Services, LLC

Hearing Site: Las Vegas, Nevada

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: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant Nora Virginia Castro (“Claimant”): Dochter Kennedy, MBA, J.D., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Wells Fargo Clearing Services, LLC (“Respondent”): Deirdre C. Wolff, Esq., Wells Fargo Law Department, St. Louis, Missouri.

CASE INFORMATION

Statement of Claim filed on or about: April 21, 2020.

Claimant signed the Submission Agreement: April 21, 2020.

Statement of Answer filed by Respondent on or about: June 16, 2020.

Respondent signed the Submission Agreement: April 30, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of customer dispute information from registration records maintained by the Central Registration Depository (“CRD”).

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Number 1418392 from her CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous;
2. Expungement of Occurrence Number 1418392 from her CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
3. Expungement of the amendments to Claimant's Form U4 associated with Occurrence Number 1418392 to include amendments of the answer to question 14I(2)(a) from "Yes" to "No;"
4. Deletion of all Disclosure Reporting Pages ("DRPs") associated with Occurrence Number 1418392 in their entirety;
5. Compensatory damages in the amount of \$1.00 from Respondent; and
6. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent objected to Claimant's request for \$1.00 in damages.

At the hearing, Claimant withdrew the request for \$1.00 in damages.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

The customers in Occurrence Number 1418392 ("Customers") are husband ("Mr. M") and wife ("Ms. M"). On October 20, 2020, Claimant advised that Ms. M was served with the Statement of Claim and notice of the date and time of the expungement hearing and that Mr. M was deceased. On January 5, 2021, Claimant filed an Affidavit confirming Ms. M was served with the Statement of Claim and notice of the date and time of the expungement hearing. Claimant provided the LexisNexis Death Record for decedent Mr. M and the Arbitrator found that Mr. M was deceased and could not be served.

The Arbitrator conducted a recorded, telephonic hearing on February 15, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement.

Ms. M did not participate in the expungement hearing.

The Arbitrator reviewed Claimant's BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrence in the CRD.

The Arbitrator also reviewed FINRA's Regulatory Notice 09-12 on Auction Rate Securities. The Arbitrator reviewed the settlement related to Occurrence Number 1418392, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on

any party to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount. Respondent settled with the Customers by repurchasing the Auction Rate Securities.

The Arbitrator noted that Respondent denied the claim in Occurrence Number 1418392. The Arbitrator noted that, according to Claimant's CRD records and testimony, the Customers did not pursue their claim in arbitration or in court.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim; Claimant's testimony; Claimant's exhibits; and Claimant's BrokerCheck® Report.

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any post-hearing submissions, 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 1418392 from registration records maintained by the CRD for Claimant Nora Virginia Castro (CRD Number 1190414) with the understanding that, pursuant to Notice to Members 04-16, Claimant Nora Virginia Castro 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 ("Code"), the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The claim, allegation, or information is false.

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

Mr. M's claim that he instructed Claimant to invest in a bond fund that is not subject to alternative minimum tax and that he was placed into auction rate securities, including, Nuveen Adjustable-Rate Preferred Stock ("Nuveen ARP"), that he did not ask to buy is clearly erroneous and false. The allegation of unauthorized trading is clearly erroneous and false because the Customers verbally authorized the purchase of the security, Nuveen ARP.

Claimant followed Mr. M's instructions, performed her duties as a representative in an ethical and professional manner, exercised reasonable diligence in ascertaining the suitability of the investment, and acted in the Customers' best interests and in furtherance of their financial objectives.

2. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services 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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Postponement Fees

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

November 30, 2020, postponement requested by Claimant and Respondent	= \$	50.00
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Total Postponement Fees	= \$	50.00
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The Arbitrator has assessed the total postponement fees to Respondent.

Last-Minute Cancellation Fees

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

November 30, 2020, cancellation requested by Claimant and Respondent	= \$	600.00
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Total Last-Minute Cancellation Fees	= \$	600.00
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The Arbitrator has assessed the total last-minute cancellation fees to Respondent.

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, which 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 28, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: February 15, 2021	1 session	

Total Hearing Session Fees	= \$	100.00
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The Arbitrator has assessed the total hearing session fees to Claimant.

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

ARBITRATOR

Erik R. Siering

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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

Erik R. Siering

Erik R. Siering
Sole Public Arbitrator

03/04/2021

Signature Date

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.

March 5, 2021

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