

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

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In the Matter of the Arbitration Between:

Claimant  
Joseph Frederick Eschleman

Case Number: 20-02613

vs.

Respondent  
Wells Fargo Clearing Services, LLC

Hearing Site: San Francisco, California

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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: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant Joseph Frederick Eschleman (“Claimant”): Michael Bessette, Esq., HLBS Law, Westminster, Colorado.

For Respondent Wells Fargo Clearing Services, LLC (“Respondent”): Geoff Beckham, Esq., Wells Fargo Legal Department, San Francisco, California.

**CASE INFORMATION**

Statement of Claim filed on or about: August 14, 2020.  
Claimant signed the Submission Agreement: August 14, 2020.

Statement of Answer filed by Respondent on or about: October 6, 2020.  
Respondent signed the Submission Agreement: October 6, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted a claim alleging that the Form U5 filed by Respondent, as part of registration records maintained by the Central Registration Depository (“CRD”), is defamatory in nature.

In the Statement of Answer, Respondent did not support Claimant’s request for expungement and denied any wrongdoing.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of the Form U5 amendments, and those relevant portions of the Form U4, from Claimant's CRD and BrokerCheck records on the basis that the disclosure is defamatory in nature, misleading, inaccurate, and/or erroneous, including:
  - a. Amendment of the Reason for Termination entry in Section 3 of Claimant's Form U5 to read "Voluntary";
  - b. Expungement of the Reason for Termination explanation on Claimant's CRD;
  - c. Amendment of the "Yes" answers to Questions 7F(1) and 7F(2) of Claimant's Form U5 to "No;" and
  - d. Deletion of any of the accompanying Internal Review and Termination Disclosure Reporting Pages in their entirety;
2. Compensatory damages in the amount of \$1.00 from Respondent; and
3. Any other relief as the arbitration Panel deems just and equitable.

In the Statement of Answer, Respondent requested:

1. Denial of Claimant's request for \$1.00 in damages; and
2. Assessment against Claimant of all forum and hearing fees assessed in connection with this matter, pursuant to FINRA Rule 13805(d).

At the hearing, Claimant withdrew his 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.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the 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 the Termination Explanation in Section 3 of Joseph Frederick Eschleman's (CRD Number 3237843) Form U5 filed by Wells Fargo Clearing Services, LLC on May 24, 2017, and maintained by the CRD. The Termination Explanation shall be deleted in its entirety and shall be replaced with the following language:

*FA input trades and instructed Client Associate to process required minimum retirement distribution indicating he had spoken to client. Upon learning client passed away previously, FA revised notes to reflect client previously verbally authorized FA to utilize trading discretion and issue an RMD. No complaint received.*

*FA, acting in the best interest of his client and with prior verbal authorization from the client, input trades when same day authorization was required. No client complaints.*

The Reason for Termination shall remain the same. This directive shall apply to all references to the Termination Explanation and Reason for Termination.

2. The Arbitrator recommends expungement of the response to Question 4 on the Termination Disclosure Reporting Page concerning Occurrence Number 1935737 on Joseph Frederick Eschleman’s (CRD Number 3237843) registration records maintained by the CRD. The response to Question 4 shall be deleted in its entirety and shall be replaced with the following language:

*Former employer alleges that the individual input trades and instructed team member to process required minimum retirement distribution indicating he had spoken to the client. Former employer further alleges that individual revised notes to reflect client previously verbally authorized individual to utilize trading discretion and issue an RMD.*

*FA, acting in the best interest of his client and with prior verbal authorization from the client, input trades when same day authorization was required. No client complaints.*

3. The Arbitrator recommends expungement based on the defamatory nature of the information. The above recommendations are made with the understanding that the registration records are not automatically amended. Joseph Frederick Eschleman must forward a copy of this Award to FINRA’s Credentialing, Registration, Education and Disclosure Department for review.
4. Any and all claims for relief not specifically addressed herein 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 = \$ 50.00

*\*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(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

**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: December 7, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: March 16, 2021	1 session	

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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**

Philip Aaron Tymon

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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**

***Philip Aaron Tymon***

Philip Aaron Tymon  
Sole Public Arbitrator

**04/23/2021**

Signature Date

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April 23, 2021

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