

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Susan Clayton Moore

Case Number: 20-02679

vs.

Respondent
Prudential Equity Group, LLC

Hearing Site: Birmingham, Alabama

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 Susan Clayton Moore: Chelsea Masters, J.D. and Dochter Kennedy, MBA, J.D., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Prudential Equity Group, LLC: Jennifer E. Novoselsky, Esq., Reyes Kurson, LTD, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: August 19, 2020.

Susan Clayton Moore signed the Submission Agreement: August 19, 2020.

Statement of Answer filed by Respondent on or about: October 5, 2020.

Prudential Equity Group, LLC signed the Submission Agreement: August 25, 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 took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 93626; compensatory damages in the amount of \$1.00 from Respondent; and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested: Claimant's request for damages and any potential request for attorneys' fees and costs be denied, and that pursuant to Rule 13805(d), all forum fees for hearing sessions in this matter be assessed against Claimant.

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.

On March 17, 2021, Claimant filed copies of the LexisNexis Death Record and obituary reflecting that the customer in Occurrence Number 93626 ("Customer") is deceased.

On March 22, 2021, Claimant filed an Affidavit of Service stating that Claimant is unable to serve the Customer because he is deceased.

On April 9, 2021, Claimant filed a letter stating that Claimant does not have a copy of the settlement agreement in her possession, and that Respondent confirmed in writing that no documents for the underlying occurrence were available to be produced.

The Arbitrator conducted a recorded, telephonic hearing on June 9, 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, took no position on the request for expungement.

A representative of the Customer did not participate in the expungement hearing. The Arbitrator found that the lack of service on the Customer is excused because the Customer is deceased.

During the expungement hearing, Respondent objected to the filing of two exhibits on the grounds that they were untimely filed. The Arbitrator sustained both objections.

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 did not review any settlement documentation related to Occurrence Number 93626. The Arbitrator found that settlement documentation was unavailable due to the length of time involved in discovering the error on Claimant's CRD Record. No settlement documentation had been provided to Claimant at the time of the settlement or to date. The Arbitrator found that an Order of Production was not necessary, and that settlement terms would not have been produced due to Respondent's confidentiality agreement in the Court case resolution. Claimant had been dismissed from the Court case. Claimant did not make any contributions to the settlement.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony.

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 93626 from registration records maintained by the CRD for Claimant Susan Clayton Moore (CRD Number 1130216) with the understanding that, pursuant to Notice to Members 04-16, Claimant Susan Clayton Moore 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:

The preponderance of the evidence, based on very credible testimony by Claimant, supports a recommendation for granting the expungement request for Occurrence Number 93626.

The underlying settlement was the result of a lawsuit in Alabama state court brought by the Customer, and Claimant was dismissed from the lawsuit by the court. Claimant's testimony provided information on the suitability of the investments, the Customer's continued investment strategy, and the Customer's close relationship with, and trust in, Claimant. The Customer never complained about the investments to Claimant. The evidence further supports that the Customer did not suffer any monetary losses as a result of the limited partnership tax incentive investments recommended by Claimant.

Claimant did not learn that there was an error on her CRD record until 2006. The occurrence on Claimant's CRD record was supposed to have been cleared many years earlier. However, the occurrence has remained on her CRD record, which appears to have been an oversight, a mistake, or an administrative error in clearance of the combined allegations from Claimant's record. Claimant had been cleared by NASD of any wrongdoing, and Claimant was advised by her then-attorney that the matter had been resolved and her CRD record was free of any violations.

There were no prior expungement requests of this occurrence, and Claimant did not make any contributions to the settlement. To the contrary, the Claimant testified that she would not accept any compensation to correct the CRD record. The occurrence is erroneous and should not have been placed on Claimant's CRD record.

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 that employed the associated person at the time of the event 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:

April 29, 2021, postponement requested by Claimant	= \$	WAIVED
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Total Postponement Fees	= \$	WAIVED
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The Arbitrator has waived the total postponement fees.

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 14, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: June 9, 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

Frances Johnson Wright

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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

Frances Johnson Wright

Frances Johnson Wright
Sole Public Arbitrator

06/11/2021

Signature Date

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June 11, 2021

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