

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Christopher Cort

Case Number: 20-02780

vs.

Respondent
Wells Fargo Clearing Services, LLC

Hearing Site: Jersey City, New Jersey

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 Christopher Cort: Doctor Kennedy, MBA, J.D. and Michael O’Gara, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Wells Fargo Clearing Services, LLC: Demian J. Betz, Esq., Wells Fargo Legal Department, Charlotte, North Carolina.

CASE INFORMATION

Statement of Claim filed on or about: August 25, 2020.
Christopher Cort signed the Submission Agreement: August 25, 2020.

Statement of Answer filed by Respondent on or about: August 28, 2020.
Wells Fargo Clearing Services, LLC signed the Submission Agreement: August 28, 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 Numbers 1830533 and 1921923; 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 did not set forth a specific relief request.

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 April 12, 2021, Claimant advised that the customers in Occurrence Number 1921923 were served with the Statement of Claim and notice of the date and time of the expungement hearing. On April 19, 2021, Claimant filed an Affidavit confirming that the customers were served with the Statement of Claim and notice of the date and time of the expungement hearing.

On April 12, 2021, Claimant informed the Arbitrator that the customer in Occurrence Number 1830533 passed away on February 26, 2018 and he provided a copy of the Death Record and Obituary. Therefore, the customer could not be served with the Statement of Claim, notice of the date and time of the expungement hearing and could not take a position on the expungement request.

On April 21, 2021, the customers in Occurrence Number 1921923 filed an opposition to Claimant's request for expungement.

The Arbitrator conducted a recorded, telephonic hearing on May 17, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

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

The customers in Occurrence Number 1921923 did not participate in the expungement hearing but opposed the expungement request. The Arbitrator found that the customers had notice of the expungement request and 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 occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Numbers 1830533 and 1921923, considered the amount of payment made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to the settlement amounts.

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

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 1830533 from registration records maintained by the CRD for Claimant Christopher Cort (CRD Number 2274905) with the understanding that, pursuant to Notice to Members 04-16, Claimant Christopher Cort 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; and the claim, allegation, or information is false.

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

The customer was a sophisticated investor with a high-risk tolerance, a growth investment objective, no liquidity needs, and a long investment time horizon. The Puerto Rico zero-coupon bond at issue in this matter was a very small part of a balanced, diversified portfolio, and its risks, terms, fees, and special advantages were fully explained to the customer. The bond had an A rating from Goldman Sachs. Accordingly, Claimant's recommendation was suitable at the time the purchase was made. In addition, due to its special features, this bond was not subject to the 2014 events which resulted in a downturn in value that affected other Puerto Rico securities. However, Goldman Sachs dropped this bond's rating along with all other Puerto Rico securities, and eventually the customer, apparently on the advice of someone else (and apparently not understanding the special, protective feature of this bond), chose to lodge a formal complaint. In fact, her bond remained solvent and did not go bankrupt, and the customer did not pursue the matter in arbitration or in court. Initially, Respondent denied the claim, but did finally settle with the customer. Claimant neither participated in nor contributed to the settlement and the customer did not pursue her claim in arbitration or in court.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1921923 from registration records maintained by the CRD for Claimant Christopher Cort (CRD Number 2274905) with the understanding that, pursuant to Notice to Members 04-16, Claimant Christopher Cort 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; and the claim, allegation, or information is false.

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

The customers had an annual income of more than \$100,000.00 a liquid net worth of approximately \$1.9 million (\$2 million net worth) and owned a balanced, diversified portfolio. However, more than \$1 million was in pension accounts in the UK, funds which were not available for their use. In order to provide income to cover their living expenses and to pay for their daughter’s college, their primary investment objective was income and cash flow. They were aggressive investors, with a high-risk tolerance, ten years investment experience, no liquidity needs, and a long-term horizon. The risks, terms, advantages and disadvantages of the purchase were fully explained, and the purchase was made in 2015. Later, at the time when the customers chose to sell the security, they apparently anticipated a dividend payment and when they didn’t receive one, they assumed that it had been reinvested, without their authorization. In fact, the issuer had already declared that no dividend would be paid due to the declining value of the security. The customers apparently did not understand the statement they received which fully reflected the actual state of their account – that no trade (authorized or unauthorized) had in fact taken place. Initially, Respondent declined the customers’ complaint but then settled in the amount of \$20,000.00. Claimant neither participated in nor contributed to the settlement.

3. 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

**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

ARBITRATOR

Joan M. Traub

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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

Joan M. Traub

Joan M. Traub
Sole Public Arbitrator

05/26/2021

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.

May 27, 2021

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