

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

William Edward Torriente, Jr.

Case Number: 20-02892

vs.

Respondent

Wells Fargo Investments, LLC

Hearing Site: Phoenix, Arizona

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 William Edward Torriente, Jr. (“Claimant”): Kurt Zimmerman, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Wells Fargo Investments, LLC (“Respondent”): Judy Louie, Esq., Wells Fargo Investments, LLC, Los Angeles, California.

CASE INFORMATION

Statement of Claim filed on or about: August 31, 2020.

Claimant signed the Submission Agreement: August 31, 2020.

Statement of Answer filed by Respondent on or about: October 22, 2020.

Respondent signed the Submission Agreement: October 22, 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 oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Expungement of Occurrence Numbers 1398130 and 1507704 from Claimant’s CRD

records pursuant to FINRA Rule 2080, as:

- a. the claim, allegation, or information is factually impossible or clearly erroneous; and/or
 - b. Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and/or
 - c. the claim, allegation, or information is false;
2. Compensatory damages in the amount of \$1.00 from Respondent; and
 3. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent objected to paying any damages or having to take any action in this matter, including amending Claimant's CRD records, and requested all FINRA fees and costs associated with the expungement hearing 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 February 15, 2021, Claimant filed an affidavit that the customer in Occurrence Number 1398130 ("Ms. J") is deceased and was therefore unable to be served with the Statement of Claim and notice of the date and time of the expungement hearing.

On February 15, 2021, Claimant filed an affidavit that the customer in Occurrence Number 1507704 ("Mr. C") was served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on March 25, 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.

Mr. C did not participate in the expungement hearing. The Arbitrator found that Mr. C 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 noted that the disputes related to Occurrence Numbers 1398130 and 1507704 were not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony and FINRA Rule 2080.

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 Numbers 1398130 and 1507704 from registration records maintained by the CRD for Claimant William Edward Torriente Jr. (CRD Number 4255814) with the understanding that, pursuant to Notice to Members 04-16, Claimant William Edward Torriente Jr. 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:

Occurrence Number 1398130

Ms. J invested in a money market fund. After some time, Ms. J told Claimant that she wanted to move the money to a bond fund. However, Ms. J then changed her mind and directed Claimant to keep the funds in the money market account. Claimant did not attempt to influence Ms. J. What occurred was clearly within FINRA Rule 2080 (b)(1)(A) and 2080 (b)(1)(C) in that the claim, allegation or information was factually impossible and clearly erroneous, and the claim, allegation or information is false. It should be expunged.

Occurrence Number 1507704

Mr. C invested in a AAA rated auction rate security. He was unable to sell the security because of illiquid market conditions that were unforeseeable when purchased due to the 2008 recession. What occurred was clearly within FINRA Rule 2080 (b)(1)(A) and 2080 (b)(1)(C) in that the claim, allegation, or information was factually impossible and clearly erroneous, and the claim, allegation or information is false. It should be expunged.

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
**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

Late Pre-hearing Cancellation Fees

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

March 3, 2021, cancellation requested by Claimant Waived

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 16, 2020 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00
Hearing: March 25, 2021 1 session

Total Hearing Session Fees = \$ 100.00

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

Merton E. Marks

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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

Merton E. Marks

Merton E. Marks
Sole Public Arbitrator

04/22/2021

Signature Date

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April 23, 2021

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