

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Corey N. Daniel

Case Number: 20-03046

vs.

Respondent
Wells Fargo Clearing Services, LLC

Hearing Site: San Francisco, California

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 Corey N. Daniel (“Claimant”): Benjamin Winograd, Esq., HLBS Law, Westminster, Colorado.

For Respondent Wells Fargo Clearing Services, LLC (“Respondent”): Patricia Cowart, Esq., Wells Fargo Clearing Services, LLC, Fort Lauderdale, Florida.

CASE INFORMATION

Statement of Claim filed on or about: September 8, 2020.
Claimant signed the Submission Agreement: September 8, 2020.

Statement of Answer filed on or about: November 4, 2020
Respondent signed the Submission Agreement: November 4, 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 1683170 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 requested any FINRA fees associated with the expungement hearing and any costs associated with the confirmation of award should be borne by 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 May 12, 2021, Claimant advised that the customer in Occurrence Number 1683170 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. On May 17, 2021, Claimant filed an Affidavit confirming that the Customer 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 August 20, 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.

The Customer also participated in the expungement hearing and opposed the expungement request.

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 noted that the dispute related to Occurrence Number 1683170 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings and exhibits; Claimant's testimony; the Customer's testimony; 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 1683170 from registration records maintained by the CRD for Claimant Corey N. Daniel (CRD Number 4413809) with the understanding that, pursuant to Notice to Members 04-16, Claimant Corey N. Daniel 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:

In May 2012, the underlying Customer wanted to participate in the Facebook IPO, which was to take place on May 18, 2012. He approached Claimant as a new customer a couple of days before the public offering and there was insufficient time for the Customer to become and participate as a pre-qualified IPO participant. Only a certain percentage of shares were allocated to pre-qualified investors at a set IPO bid price of around \$38.00 prior to the opening up of Facebook shares to the market. As a result, the Customer was only eligible to buy shares at the market price on May 18, 2012. Unfortunately, the launch of the IPO was marred by significant irregularities, technical delays and a system breakdown at the NASDAQ. When Claimant scheduled the Customer's trade that morning, the computer showed a bid price of \$38.02, which Claimant, at the time, thought looked wrong, as it was close to the pre-qualified bid price. Eventually, after the NASDAQ technical difficulties were sorted out, the correct share price turned out to be \$42.00, which was reflected in all of the documentation. Claimant credibly testified that he explained this to the Customer at the time. He also credibly testified that he followed the Customer's instructions and the company's trade requirements and trade confirmations were consistent with that testimony. The Customer also appeared at the hearing and testified that he was told that the price was \$38.00 and felt that he was lied to. However, the evidence supported Claimant's testimony and although it is clear that the Customer was fervent in his belief, the evidence demonstrated that he was mistaken, or simply did not have a good understanding of the IPO market process. This was coupled with the historic technical problems encountered by the NASDAQ on May 18, 2012. This is also the only customer complaint on Claimant's BrokerCheck ® Report.

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 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
------------------	------	--------

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: January 8, 2021	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: August 20, 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

Arocles Aguilar

-

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

Arocles Aguilar

Arocles Aguilar
Sole Public Arbitrator

08/25/2021

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.

August 25, 2021

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