

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Stephen Mark Bender

Case Number: 20-03367

vs.

Respondent
Wells Fargo Clearing Services, LLC

Hearing Site: Pittsburgh, Pennsylvania

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

This case was administered under the Special Proceeding option for simplified cases.

REPRESENTATION OF PARTIES

For Claimant Stephen Mark Bender: Brian Luther Esq., FA Expungement, LLC., Denver, 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: September 25, 2020.
Stephen Mark Bender signed the Submission Agreement: September 25, 2020.

Statement of Answer filed by Respondent on or about: November 4, 2020.
Wells Fargo Clearing Services, LLC 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 took no position on Claimant’s expungement request and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1562649.

In the Statement of Answer, Respondent did not set forth a specific relief request.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On November 3, 2020, the parties agreed to proceed with one Arbitrator under the Special Proceeding option for simplified cases.

On March 1, 2021, Claimant advised that the customer in Occurrence Number 1562649 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 May 18, 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.

The customer did not participate in the expungement hearing but wrote an email in response to Claimant's expungement request. The Arbitrator found that the customer 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 dispute related to Occurrence Number 1562649 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: Claimant's BrokerCheck® Report, the pleadings, Claimant's testimony, Respondent's representative's testimony, the customer's email, 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 1562649 from registration records maintained by the CRD for Claimant Stephen Mark Bender (CRD Number 3170962) with the understanding that, pursuant to Notice to Members 04-16, Claimant Stephen Mark Bender 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’s complaint against Claimant was for errors on monthly statements that were rendered to the customer by Respondent. Claimant played no role in preparation or delivery of the statements. The customer simply did not understand the statements because they represented a total of her accounts, rather than a breakdown of her individual accounts. Respondent denied her claim and took no disciplinary action against the Claimant. The customer was provided with advance notice of the expungement hearing but did not participate.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Expungement Filing Fee = \$ 1,575.00

**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, Wells Fargo Clearing Services, LLC is assessed the following:

Member Surcharge = \$ 1,900.00
Member Process Fee = \$ 3,750.00

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 @ \$1,125.00/session = \$ 1,125.00
Pre-Hearing Conference: January 21, 2021 1 session

One (1) hearing session on expungement request @ \$1,125/session = \$ 1,125.00
Hearing: May 18, 2021 1 session

Total Hearing Session Fees	= \$ 2,250.00
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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

Francis A. King

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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

Francis A. King

Francis A. King
Sole Public Arbitrator

05/26/2021

Signature Date

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May 26, 2021

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