

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Barbara Burke Heaton

Case Number: 21-00071

vs.

Respondent
Pruco Securities, 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 Barbara Burke Heaton (“Claimant”): Erika Binnix, Esq., HLBS Law, Westminster, Colorado.

For Respondent Pruco Securities, LLC. (“Respondent”): Jennifer E. Novoselsky, Esq., Reyes Kurson, LTD., Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: January 12, 2021.
Claimant signed the Submission Agreement: January 12, 2021.

Statement of Answer filed by Respondent on or about: March 10, 2021.
Respondent signed the Submission Agreement: January 25, 2021.

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:

1. Expungement of Occurrence Number 1678761 from Claimant's CRD records pursuant to FINRA Rule 20800(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous;
2. Expungement of Occurrence Number 1678761 from Claimant's CRD records pursuant to FINRA Rule 20800(b)(1)(C), as the claim, allegation, or information is false;
3. Deletion of all Disclosure Reporting Pages accompanying Occurrence Number 1678761; and
4. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. Any request for damages be denied;
2. Any request for costs and attorneys' fees be denied; and
3. All forum fees in the matter be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

On June 28, 2021, Claimant advised that the customer in Occurrence Number 1678761 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing. On July 6, 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 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 the request for expungement.

The Customer did not participate in the expungement. 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 occurrence in the CRD.

The Arbitrator noted that the dispute related to Occurrence Number 1678761 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, Notice and Proof of Service to the Customer, pleadings, Claimant's exhibits and 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 1678761 from registration records maintained by the CRD for Claimant Barbara Burke Heaton (CRD Number 1535445) with the understanding that, pursuant to Notice to Members 04-16, Claimant Barbara Burke Heaton 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 Arbitrator finds that the annuity in question was clearly explained to the Customer, including the early surrender fee. The Customer signed documents giving her notice of the conditions of the annuity and she did not surrender the annuity until her brother's investment advisor told her to do so. The Arbitrator notes that the annuity gained value beyond the surrender fee during its short life. The Customer did not receive money or other damages from Claimant or Respondent, nor did she seek relief in arbitration or lawsuit. The Customer did not participate in the hearing.

2. Any and all claims for relief not specifically addressed herein, including requests for attorneys' fees, 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	=\$ 1,575.00
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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(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	= \$ 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: April 30, 2021	1 session
One (1) hearing session on expungement request @ \$1,125.00/session	= \$ 1,125.00
Hearing: August 9, 2021	1 session
Total Hearing Session Fees	= \$ 2,250.00

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

Daniel M. Yamshon

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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

Daniel M. Yamshon

Daniel M. Yamshon
Sole Public Arbitrator

08/10/2021

Signature Date

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August 10, 2021

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