

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Douglas J. Donnelly

Case Number: 21-00439

vs.

Respondent
Prudential Equity Group, LLC

Hearing Site: Seattle, Washington

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

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Douglas J. Donnelly (“Claimant”): Michael Bessette, Esq., HLBS Law, Westminster, Colorado.

For Respondent Prudential Equity Group, LLC (“Respondent”): Jennifer E. Novoselsky, Reyes Kurson, LTD, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: February 18, 2021.
Claimant signed the Submission Agreement: February 18, 2021.

Statement of Answer filed by Respondent on or about: April 9, 2021
Respondent did not sign the Submission Agreement.

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 Numbers 13426, 13427, and 1158066 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous;
2. Expungement of Occurrence Numbers 13426, 13427, and 1158066 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(B), as Claimant was not involved in the alleged investment-related sales practice violation, forgery, theft misappropriation, or conversion of funds;
3. Expungement of Occurrence Numbers 13426, 13427, and 1158066 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
4. Expungement of Occurrence Numbers 13426, 13427, and 1158066 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(2), as the expungement relief is meritorious and the expungement would have no material adverse effect on investor protection, the integrity of the CRD system or regulatory requirements;
5. Deletion of all Disclosure Reporting Pages accompanying Occurrence Numbers 13426, 13427, and 1158066; and
6. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested

1. Any potential request for damages, attorneys' fees, and/or costs be denied; and
2. All forum fees be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and, having answered the claim, appeared, and testified at the hearing, is bound by the determination of the Arbitrator on all issues submitted.

On April 20, 2021, the parties agreed to proceed with a single arbitrator for this matter.

On July 12, 2021, Claimant filed the death records from Lexis Nexis database reflecting that the customers in Occurrence Number 13426 ("Mr. W") and Occurrence Number 13427 ("Ms. T") are deceased, and therefore, Claimant was unable to serve the Statement of Claim and notice of the date and time of the expungement hearing.

On that same day, Claimant advised that the customer in Occurrence Number 1158066 ("Mr. F") was served with the Statement of Claim and notice of the date and time of the expungement hearing. On July 19, 2021, Claimant filed an Affidavit confirming that the Mr. F was served with the Statement of Claim and notice of the date and time of the expungement hearing.

Hereinafter, Mr. W, Ms. T, and Mr. F are collectively referred to as the "Customers".

On September 29, 2021, Claimant submitted an affidavit from Mr. F, dated February 27, 2021, supporting Claimant's request for expungement.

The Arbitrator conducted a recorded hearing by videoconference on October 7, 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. F did not participate in the expungement hearing. The Arbitrator found that the Mr. F 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 was unable to review the settlement documentation related to Occurrence Number 13426. On July 15, 2021, Claimant's counsel submitted a letter to the Arbitrator stating that Respondent's counsel conducted a diligent search for the settlement agreement and was unable to locate any documents concerning the customer complaint due to the length of time since the settlement occurred. Having reviewed Claimant's BrokerCheck® Report and based on Claimant's testimony, the Arbitrator considered the amount of payment made in the settlement and noted that Claimant did not contribute to the settlement amount. The Arbitrator also noted that the date of the settlement preceded the effective date of the rule against conditioned settlements.

The Arbitrator noted that the disputes related to Occurrence Numbers 13427 and 1158066 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 Statement of Claim; exhibits; and testimony provided by Claimant at the expungement hearing.

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 13426, 13427, and 1158066 from registration records maintained by the CRD for Claimant Douglas J. Donnelly (CRD Number 1397094) with the understanding that, pursuant to Notice to Members 04-16, Claimant Douglas J. Donnelly 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, 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 13426 was settled. Claimant did not participate in the settlement; did not sign the settlement agreement; and did not contribute money to the settlement. The claim against Claimant was clearly erroneous because Claimant was de facto dismissed from the case – the case settled fully without him.

Occurrence 13427 was lodged with Respondent, who investigated it, denied it, and the complaining party took no further action.

Occurrence 1158066 concluded with a dismissal with prejudice for Claimant from Mr. F's customer dispute against Respondent. In addition, Mr. F filed an affidavit stating that, "Before the case was adjudicated, I formally dismissed Douglas Donnelly as a party to my claim, because he was in no way responsible for my portfolio's poor stock selection and losses." Therefore, Mr. F's complaint is either false or clearly erroneous.

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	= \$	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 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	= \$	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: June 7, 2021		1 session
One (1) hearing session on expungement request @ \$1,125.00/session	= \$	1,125.00
Hearing: October 7, 2021		1 session
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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

Stephany Adriene Watson - 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

Stephany Adriene Watson

Stephany Adriene Watson
Sole Public Arbitrator

10/20/2021

Signature Date

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October 20, 2021

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