

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Randall Larry Krenzin

Case Number: 21-01092

vs.

Respondents
Banc of America Investment Services Inc.
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. Members

REPRESENTATION OF PARTIES

For Claimant Randall Larry Krenzin (“Claimant”): Harris Freedman, Esq., HLBS Law, Westminster, Colorado.

For Respondent Banc of America Investment Services Inc. (“BAI”): Laura A. Pizzitola, Esq., Bressler, Amery & Ross, P.C., Birmingham, Alabama.

For Respondent Wells Fargo Clearing Services, LLC (“Wells Fargo”): Geoffrey S. Beckham, Esq., Wells Fargo Legal Department, San Francisco, California.

Hereinafter, BAI and Wells Fargo are collectively referred to as “Respondents”.

CASE INFORMATION

Statement of Claim filed on or about: April 26, 2021.
Amended Statement of Claim filed on or about: June 9, 2021.
Claimant signed the Submission Agreement: April 26, 2021.

Statement of Answer filed by Respondent on or about: June 24, 2021.
Answer to the Amended Statement of Claim filed on or about: June 25, 2021.
BAI signed the Submission Agreement: June 24, 2021.

Statement of Answer filed by Wells Fargo on or about: July 1, 2021.
Wells Fargo signed the Submission Agreement: June 30, 2021.

CASE SUMMARY

In the Statement of Claim, as amended, 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, as amended, BAI took no position on Claimant's expungement request and asserted various affirmative defenses.

In the Statement of Answer, Wells Fargo took no position on Claimant's expungement request and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested:

1. Expungement of Occurrence Numbers 1382595, 1443013, 1468207, 1538214, 1856117, 2020116 and 2087841 from his 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 1382595, 1443013, 1468207, 1538214, 1856117, 2020116 and 2087841 from his CRD records, pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation or information is false;
3. Deletion of all Disclosure Reporting Pages accompanying Occurrence Numbers 1382595, 1443013, 1468207, 1538214, 1856117, 2020116 and 2087841; and
4. Any and all other relief that the Arbitrator deems just and equitable.

In its Statement of Answer, as amended, BAI did not set forth a specific relief request.

In its Statement of Answer, Wells Fargo requested:

1. Any request for damages be denied; and
2. All forum and hearing fees in connection with this matter be assessed against Claimant, pursuant to FINRA Rule 13805(d).

At the hearing, Claimant withdrew his request for expungement of Occurrence Number 1468207 from registration records maintained by the CRD.

OTHER ISSUES CONSIDERED AND DECIDED

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

On July 2, 2021, the parties agreed to proceed with a single arbitrator on this matter.

On December 13, 2021, Claimant filed the death record from Lexis Nexis database reflecting that one of the customers in Occurrence Numbers 1443013 and 1538214 ("Mrs. G") is deceased and therefore Claimant was unable to serve the Statement of Claim and notice of date and time of the expungement hearing. On the same day, Claimant advised that the customers in Occurrence Numbers 1382595 ("Mr. N and Mrs. N"), 1443013 and 1538214 ("Mr. G"), 1468207 ("Ms. F"), 1856117 ("Mr. L"), 2020116 ("Ms. B") and 2087841 ("Ms. H") were served with the Statement of Claim and notice of the date and time of the expungement hearing. On December 20, 2021 and January 31, 2022, Claimant filed Affidavits confirming that Mr. N,

Mrs. N, Mr. G, Ms. F, Mr. L, Ms. B and Ms. H were served with the Statement of Claim and notice of the date and time of the expungement hearing.

On December 31, 2021, Mr. N and Mrs. N submitted a letter opposing Claimant's expungement request.

The Arbitrator conducted a recorded, telephonic hearing on February 24, 2022, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondents participated in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement.

Mrs. N participated in the hearing and opposed the expungement request. The other customers did not participate in the expungement hearing. The Arbitrator found that Mr. N, Mr. G, Ms. F, Mr. L, Ms. B and Ms. H 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 also reviewed the settlement documentation related to Occurrence Number 2087841, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount.

The Arbitrator noted that the disputes related to Occurrence Numbers 1382595, 1443013, 1538214, 1856117 and 2020116 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: the Amended Statement of Claim; Claimant's BrokerCheck® Report; Claimant's testimony; and Mrs. N'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 Numbers 1382595, 2020116, 1443013, 1538214 and 1856117 from registration records maintained by the CRD for Randall Larry Krenzin (CRD Number 2419349) with the understanding that, pursuant to Notice to Members 04-16, Randall Larry Krenzin 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 1382595

Mrs. N appeared by telephone at the expungement hearing. Mr. N and Mrs. N (together, “Mr. and Mrs. N”) had 90% of their liquid net worth in General Electric Company (“GE”) stock with the remainder in annuities. They were referred to Claimant by another broker with BAI. Claimant helped Mr. and Mrs. N diversify their portfolio. As a result of the sale of their GE stock and diversification, Mr. and Mrs. N incurred tax liabilities. Mr. and Mrs. N believed that they should have been informed of the amount of taxes that would be owed and that the tax consequences were Claimant’s fault. Claimant is not a tax advisor and told Mr. and Mrs. N to consult with their accountant. The diversification was actually favorable; while GE stock is down 65% from the time of the diversification, the market is up 400%. An investigation of the complaint concluded that Claimant acted properly, there were no actual damages, and the complaint was dismissed. Mr. and Mrs. N took no further action. Expungement is recommended for Occurrence Number 1382595 as the complaint or allegation is false.

Occurrence Number 2020116

Claimant inherited Ms. B’s account from another advisor. The prior strategy of maintaining a moderate portfolio was kept in place. Claimant never traded in Ms. B’s IRA account. Ms. B complained when her accounts declined, claiming that she had asked for risk reduction, but it had not occurred. There is no record of Ms. B asking for risk reduction in any of her accounts and she gave no instructions for her IRA. Wells Fargo investigated the complaint and wrote a letter to Ms. B explaining that there was no record of a request to change the investments, to liquidate, or to move to cash or money markets and that the claim was denied. Expungement is recommended for Occurrence Number 2020116 as the claim was false and factually impossible.

Occurrence Numbers 1443013 and 1538214

Claimant inherited Mr. G’s and Mrs. G’s accounts from another broker. A thorough risk analysis was completed. Mr. G was an experienced and sophisticated investor and wanted a moderate to aggressive approach with bonds and alternative investments.

Mr. G also had another account with Lehman Brothers (“Lehman”) and had purchased Lehman notes through that account. Mr. G discussed purchasing more Lehman notes and had thoroughly researched the investment. Mr. G provided Claimant with the CUSIP number for the Lehman notes and asked for a price. Mr. G stated he was able to buy the notes through Claimant for a lower price than through his Lehman account and bought more. The trade occurred in 2004. This was an unsolicited, customer instituted trade. Lehman subsequently went bankrupt. Claimant moved to another firm in 2007 and Mr. G made the complaint in 2009.

BAI investigated the complaint and concluded that everything was done according to Mr. G’s instructions and that Mr. G had earned significant interest prior to the bankruptcy. Mr. G’s claim was denied. It appears the complaint was filed due to dissatisfaction with unprecedented market conditions. Mr. G subsequently withdrew the complaint identified in Occurrence Number 1538214. There was no settlement paid. Expungement is recommended for Occurrence Numbers 1443013 and 1538214 as the claims were false.

Occurrence Number 1856117

Claimant had a short relationship with Mr. L. Claimant was asked to become Mr. L’s advisor after Mr. L was unhappy with his previous broker. Claimant was later asked to help the advisor who took over from him as well. Claimant only worked with Mr. L for a six-month period.

Mr. L was a CEO of a technology firm. Mr. L wanted more growth and to diversify with bonds as all of his assets were in equities. Claimant and Mr. L had several meetings to make sure Claimant knew what Mr. L wanted. Mr. L made it clear he was interested in very long-term investments, with a ten year or more time horizon and did not need money in the foreseeable future. After six months, Mr. L “flipped out” when there was a decline in his portfolio. The complaint alleged inappropriate investments. Mr. L’s new account documents showed he had long term goals, over ten years of experience investing in stocks, had received confirmations and did not complain until 2015 when his energy sector stocks began to decline due to oversupply in the markets. Wells Fargo concluded the investments were appropriate given Mr. L’s stated objectives and denied the claim. No subsequent arbitration was filed and there was no settlement offer. Expungement is recommended for Occurrence Number 1856117 as the complaint was false and factually impossible.

2. Claimant’s request for expungement of Occurrence Number 2087841 from registration records maintained by the CRD is denied. The Arbitrator has provided the following explanation:

Ms. H was a vice president at a technology firm. Claimant inherited her account from another advisor in 2016. The issue arose from what Claimant described as a “miscommunication” over the order of money market notes from a Canadian bank. Claimant asserts Ms. H ordered three notes, which were purchased on July 1, 2020, the same day the order was placed. A few months later, Claimant left Wells Fargo and joined Morgan Stanley. The complaint was filed after Claimant left Wells Fargo and alleged Ms. H only ordered two notes, not three. Wells Fargo reversed the purchase of

the third note and made up the difference between the purchase price and the price received when the third note was sold. Ms. H was made whole, there was no formal settlement and Ms. H suffered no damages.

Claimant has the burden of proof to produce facts to justify expungement. There are not enough facts in front of the Arbitrator to show the initial claim was false, impossible or clearly erroneous. The fact that Ms. H was whole is not enough, nor is miscommunication a recognized ground for expungement. Expungement of Occurrence Number 2087841 is denied.

3. 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	= \$	1,600.00
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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 parties, Respondents are each assessed the following:

Member Surcharge	= \$	2,000.00
Member Process Fee	= \$	3,850.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

January 11, 2022, postponement requested by Claimant	= \$	1,150.00
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Total Postponement Fees	= \$	1,150.00

The Arbitrator has assessed the total postponement fees to Claimant.

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 @ \$1,150.00/session	= \$	1,150.00
Pre-Hearing Conference: September 9, 2021	1 session	
One (1) hearing session on expungement request @ \$1,150.00/session	= \$	1,150.00

Hearing: February 24, 2022 1 session

Total Hearing Session Fees =\$ 2,300.00

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

03/09/2022

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.

March 09, 2022

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