

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Michael Piccolo

Case Number: 21-02049

vs.

Respondent  
Wells Fargo Clearing Services, LLC

Hearing Site: Jersey City, New Jersey

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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 Michael Piccolo: Brian Luther, Esq., FA Expungement, LLC., Denver, Colorado.

For Respondent Wells Fargo Clearing Services, LLC: Jeffrey D. Rodgers, Jr., Esq., Wells Fargo Legal Department, St. Louis, Missouri.

**CASE INFORMATION**

Statement of Claim filed on or about: August 9, 2021.

Michael Piccolo signed the Submission Agreement: August 9, 2021.

Statement of Answer filed by Respondent on or about: September 29, 2021.

Wells Fargo Clearing Services, LLC signed the Submission Agreement: September 29, 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 supported Claimant’s expungement request.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 2104142, 1430190, and 1869692.

In the Statement of Answer, Respondent requested that costs in this matter are assessed consistent with FINRA rules, and any other such relief be granted to Respondent that is deemed appropriate.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

The parties agreed that pursuant to Rule 13401(c) of the Code of Arbitration Procedure, this matter would be decided by one Arbitrator.

On February 5, 2022, Claimant advised that the customers in Occurrence Numbers 2104142, 1430190, and 1869692 ("Customers") were 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 February 25, 2022, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing.

The Customers did not participate in the expungement hearing. The Arbitrator found that the customers had notice of the expungement request and hearing. The customer in Occurrence Number 1869692 opposed the request for expungement.

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 disputes related to Occurrence Numbers 2104142, 1430190, and 1869692 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 pleadings; Claimant's testimony; Claimant's BrokerCheck® Report; and the exhibits.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the expungement hearing, 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 2014042 from registration records maintained by the CRD for Claimant Michael Piccolo (CRD Number 2614880) with the understanding that, pursuant to Notice to Members 04-16, Claimant Michael Piccolo 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:

Claimant’s credible testimony consistent with the timeline set forth in the Statement of Claim evidences that an error in the customer’s account that had been made was promptly corrected and there was no loss to the customer. There was no evidence of unauthorized trading, and any allegation of unauthorized trading is clearly erroneous and false. Therefore, expungement of the complaint is appropriate.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1430190 from registration records maintained by the CRD for Claimant Michael Piccolo (CRD Number 2614880) with the understanding that, pursuant to Notice to Members 04-16, Claimant Michael Piccolo 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:

Claimant’s credible testimony and evidence showed that the securities of which the customer complained were brought over to the account by the customer via the Automated Customer Account Transfer Services (“ACATS”). The Claimant had nothing to do with the acquisition of the securities related to the customer complaint. The complainant’s allegations are clearly erroneous and false. Therefore, expungement of the complaint is appropriate.

3. The Arbitrator recommends the expungement of all references to Occurrence Number 1869692 from registration records maintained by the CRD for Claimant Michael Piccolo (CRD Number 2614880) with the understanding that, pursuant to Notice to Members 04-16, Claimant Michael Piccolo 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:

A preponderance of the evidence proves that the securities in the customer’s account were consistent with her investment objectives. Claimant met many times with the customer and clearly explained risks associated with the securities. Any losses in the account due to market volatility were not due to any wrongdoing of the Claimant. The Complainant’s allegations are clearly erroneous and false. Therefore, expungement of the complaint is appropriate.

### **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

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

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

#### **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 @ \$1,150.00/session = \$ 1,150.00  
Pre-Hearing Conference: December 7, 2021 1 session

One (1) hearing session on expungement request @ \$1,150.00/session = \$ 1,150.00  
Hearing: February 25, 2022 1 session

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| Total Hearing Session Fees | = \$ 2,300.00 |
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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**

Kenneth J. Horowitz

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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**

***Kenneth J. Horowitz***

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Kenneth J. Horowitz  
Sole Public Arbitrator

**03/02/2022**

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Signature Date

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March 02, 2022

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