

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Michele L. Girgenti

Case Number: 21-02520

vs.

Respondent
Wells Fargo Clearing Services, LLC

Hearing Site: Philadelphia, 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

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Michele L. Girgenti: David I. Hantman, Bressler, Amery & Ross, P.C., New York, New York.

For Respondent Wells Fargo Clearing Services, LLC: Valerie Holder, Esq., Wells Fargo Legal Department, San Francisco, California.

CASE INFORMATION

Statement of Claim filed on or about: October 4, 2021.

Michele L. Girgenti signed the Submission Agreement: October 4, 2021.

Statement of Answer filed by Respondent on or about: October 26, 2021.

Wells Fargo Clearing Services, LLC signed the Submission Agreement: October 28, 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 did not oppose Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1868119.

In the Statement of Answer, Respondent requested that all costs and fees associated with the claim be assessed solely against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

By correspondence dated October 26, 2021, the parties advised FINRA Dispute Resolution Services of their agreement to proceed with a single arbitrator in this matter

On November 8, 2021, Claimant advised that the customers in Occurrence Number 1868119 (“Customers”) were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded hearing by videoconference on November 29, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent did not participate in the expungement hearing and did not oppose the request for expungement.

The Customers also did not participate in the expungement hearing. The Arbitrator found that the Customers 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 also reviewed the settlement documentation related to Occurrence Number 1868119, 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.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, 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 1868119 from registration records maintained by the CRD for Claimant Michele L. Girgenti (CRD Number 4095670) with the understanding that, pursuant to Notice to Members 04-16,

Claimant Michele L. Girgenti 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 had a limited role as a Wells Fargo Clearing Services, LLC (“Wells Fargo”) registered associate. She served solely in an administrative capacity. She was not a Financial Advisor and did not provide clients with financial advice or make investment recommendations. She was permitted by Wells Fargo to accept unsolicited orders from customers, but she was prohibited by Wells Fargo from rendering investment advice or opinion and making recommendations. In this case, Claimant placed an unsolicited stop-loss order at the request of the Customer. The complaint that Claimant should have made a recommendation is false and clearly erroneous. Her role was limited by Wells Fargo to that of an order taker for the unsolicited stop-loss order.

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) hearing session on expungement request @ \$1,150.00/session	= \$	1,150.00
Hearing: November 29, 2021 1 session		
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Total Hearing Session Fees	= \$	1,150.00

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

Louis P. Wagman

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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

Louis P. Wagman

Louis P. Wagman
Sole Public Arbitrator

12/17/2021

Signature Date

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December 17, 2021

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