

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Carlos Alberto Vargas

Case Number: 21-02982

vs.

Respondent
Wells Fargo Clearing Services, LLC

Hearing Site: Boca Raton, Florida

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 Carlos Alberto Vargas: Thomas McHugh, Esq., Bressler, Amery & Ross, P.C., New York, New York.

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

CASE INFORMATION

Statement of Claim filed on or about: December 7, 2021.

Carlos Alberto Vargas signed the Submission Agreement: December 7, 2021.

Statement of Answer filed by Respondent on or about: December 21, 2021.

Wells Fargo Clearing Services, LLC signed the Submission Agreement: December 21, 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 2091582.

In the Statement of Answer, Respondent requested that all costs and fees associated with this 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.

On February 24, 2022, Claimant filed an Affirmation of Service confirming that the customer in Occurrence Number 2091582 (“Customer”) was served with the Statement of Claim and notice of the date and time of the expungement hearing through his counsel.

The Arbitrator conducted a recorded, telephonic hearing on March 2, 2022, so the parties could present oral argument and evidence on Claimant’s request for expungement.

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

The Customer did not participate in the expungement hearing. 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 2091582 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: the pleadings; correspondence from the Customer’s attorney; and the testimony of Claimant.

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 2091582 from registration records maintained by the CRD for Claimant Carlos Alberto Vargas (CRD Number 5606327) with the understanding that, pursuant to Notice to Members 04-16, Claimant 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 finding of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The Arbitrator has made the above Rule 2080 finding based on the following reasons:

This is a case of mistaken identity involving a different Carlos Vargas. The Customer's claim was withdrawn. The Customer never met or spoke to Claimant Carlos Vargas. This was confirmed by the Customer's attorney.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Expungement 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 a party, Respondent Wells Fargo Clearing Services, Inc. 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: March 2, 2022 1 session	

Total Hearing Session Fees	= \$ 1,150.00
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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

Gerald Silverman

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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

Gerald Silverman

Gerald Silverman
Sole Public Arbitrator

03/04/2022

Signature Date

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March 04, 2022

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