

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Shahida Arunima Hossain

Case Number: 17-00463

vs.

Respondents
Wells Fargo Advisors, LLC and
Bruce McDonel

Hearing Site: Chicago, Illinois

Nature of the Dispute: Associated Person vs. Member and Customer

REPRESENTATION OF PARTIES

For Claimant Shahida Arunima Hossain ("Claimant"): Nicholas P. Iavarone, Esq., The Iavarone Law Firm, Chicago, Illinois and Gregory B. Simon, Gregory B. Simon Law, LLC, Chicago, Illinois.

For Respondent Wells Fargo Advisors, LLC ("Wells Fargo"): Lindsay Wuller Aggarwal, Esq. and Eric Martin, Esq., Bryan Cave Leighton Paisner LLP, St. Louis, Missouri.

Respondent Bruce McDonel ("McDonel") did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: February 21, 2017.

Amended Statement of Claim filed on or about: March 22, 2017.

Claimant signed the Submission Agreement: February 21, 2017 and March 20, 2017.

Statement of Answer filed by Wells Fargo on or about: May 19, 2017.

Wells Fargo signed the Submission Agreement: May 19, 2017.

McDonel did not file a Statement of Answer or sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim and Amended Statement of Claim, Claimant asserted the following causes of action: defamation, libel and slander per se, and false light. The causes of action relate to Claimant's allegation that Wells Fargo filed a false Form U5 and amended Form U5 in Claimant's registration records maintained by the Central Registration Depository ("CRD"), giving the appearance that Claimant is a dishonest broker who betrayed her employer and a customer, while resigning from Wells Fargo to avoid an internal investigation. In the Amended Statement of Claim, Claimant further

alleges that the complaint made by a (different) customer, McDonel, is false and resulted from defamatory statements made by Wells Fargo.

Unless specifically admitted in the Statement of Answer, Wells Fargo denied the allegations made in the Statements of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim and Amended Statement of Claim, Claimant requested \$2,500,000.00 in compensatory damages, \$5,000,000.00 in punitive damages, costs, and expungement of any relevant Form U5 and customer dispute information from her registration records maintained by the CRD.

In the Statement of Answer, Wells Fargo requested that Claimant's Statements of Claim and any damages alleged therein be denied and an award of Wells Fargo's fees and costs.

At the close of the hearing, Claimant requested \$1,000,000.00 in compensatory damages and \$3,000,000.00 in punitive damages.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

McDonel is not a member or associated person of a FINRA member and did not voluntarily submit to arbitration. The Panel determined, that as the customer related to Occurrence Number 1925202, McDonel was a nominal party only and made no determination with respect to any claim for damages against McDonel.

Claimant requested expungement of Occurrence Numbers 1925202 and 1922178 as part of the recorded, in-person evidentiary hearing. Neither McDonel nor the customer related to Occurrence Number 1922178 appeared at the evidentiary hearing.

The Panel reviewed the BrokerCheck® Report for Claimant and the settlement documents for Occurrence Number 1925202, considered the amount of payments made to any party, and considered other relevant terms and conditions of the settlement. The Panel noted that the settlement was not conditioned on McDonel not opposing the request for expungement. The Panel also noted that Claimant did not contribute to the settlement amount.

Occurrence Number 1922178 did not result in a settlement. Therefore, the Panel did not review any settlement documents with respect to Occurrence Number 1922178.

The Panel noted that Claimant did not previously file a claim requesting expungement of the same disclosures in the CRD.

In recommending expungement for Occurrence Number 1925202, the Panel relied upon the following documentary or other evidence: Claimant's testimony, McDonel's signed

Option Account Information and Agreement document, evidence of the use of margin in the account, and McDonel's written complaint.

In recommending expungement for Occurrence Number 1922178, the Panel relied upon the following documentary or other evidence: Claimant's testimony, testimony from Wells Fargo representatives, including Claimant's branch manager and several compliance personnel, and compliance documentation for the complaint made by the customer.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings and the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of all references to Occurrence Number 1925202 from registration records maintained by the CRD for Claimant Shahida Arunima Hossain (CRD Number 2783839) with the understanding that, pursuant to Notice to Members 04-16, Claimant Shahida Arunima Hossain 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 Panel 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 Panel has made the above Rule 2080 findings based on the following reasons:

McDonel claimed he did not authorize margin and his account was to be conservative, but he signed an Option Account Information and Agreement document which included speculation as one of his options trading strategies.

2. The Panel recommends the expungement of all references to Occurrence Number 1922178 from registration records maintained by the CRD for Claimant Shahida Arunima Hossain (CRD Number 2783839) with the understanding that, pursuant to Notice to Members 04-16, Claimant Shahida Arunima Hossain 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 Panel 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 Panel has made the above Rule 2080 findings based on the following reasons:

The customer's complaint relates to delays in liquidation of his account. There was extensive testimony from Claimant and Wells Fargo's representatives, including Claimant's branch manager and several compliance personnel, that there was no delay in liquidation, since one item required an insurance company to provide forms and effect the liquidation. Wells Fargo investigated and concluded that there was no basis for the customer's complaint. The customer's complaint is false, factually impossible, or clearly erroneous because there was no delay in the liquidation of the account. The account was liquidated in the normal course of business.

3. The Panel recommends the expungement of the "Yes" answers to Questions 7B and 7(F)(1) on Shahida Arunima Hossain's Form U5 filed by Wells Fargo on January 12, 2017. The "Yes" answers shall be changed to "No" and the accompanying Disclosure Reporting Pages shall be deleted in their entirety.

The Panel further recommends expungement of the "Yes" answer to Question 14(J)(1) of Shahida Arunima Hossain's Amended Form U4 filed by RBC Capital Markets, LLC on February 17, 2017, and maintained by the CRD. The "Yes" answer shall be changed to "No" and the accompanying Termination Disclosure Reporting Page shall be deleted in its entirety.

These recommendations shall apply to any subsequent disclosures concerning this event.

These recommendations are made with the understanding that Claimant Shahida Arunima Hossain (CRD Number 2783839) must obtain confirmation of this Award from a court of competent jurisdiction before the CRD will execute the expungement directive. The Form U5 is not automatically amended to include the changes indicated above. Claimant Shahida Arunima Hossain must forward a copy of the Court Order to FINRA's Registration and Disclosure Department for the amendments to be incorporated into the Form U5.

4. Claimant's claims for compensatory damages are denied.

5. Other than forum fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter.
6. Any and all claims for relief not specifically addressed herein, including punitive damages, are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee	=\$ 2,250.00
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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, Wells Fargo is assessed the following:

Member Surcharge	=\$ 3,600.00
Member Process Fee	=\$ 6,800.00

Postponement Fees

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

April 9 – 13, 2018, postponement jointly requested by Claimant and Wells Fargo	=\$ 1,500.00
August 21 – 24, 2018, postponement jointly requested by Claimant and Wells Fargo	=\$ 1,500.00
June 4 – 7, 2019, postponement requested by Wells Fargo	=\$ 1,500.00
<hr/> Total Postponement Fees	<hr/> =\$ 4,500.00

The Panel has assessed \$750.00 of the postponement fees to Claimant.

The Panel has assessed \$3,750.00 of the postponement fees to Wells Fargo.

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) arbitrator @ \$200.00/decision	=\$ 200.00
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Wells Fargo submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	= \$ 200.00
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The Panel has assessed \$100.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$100.00 of the discovery-related motion fees to Wells Fargo.

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing Conference: March 8, 2019	1 session

Two (2) pre-hearing sessions with the Panel @ \$1,500.00/session	= \$ 3,000.00
Pre-hearing Conferences: July 12, 2017	1 session
June 14, 2019	1 session

Eight (8) hearing sessions @ \$1,500.00/session	= \$ 12,000.00
Hearing Dates: December 11, 2019	2 sessions
December 12, 2019	2 sessions
December 13, 2019	2 sessions
December 17, 2019	2 sessions

Total Hearing Session Fees	= \$ 15,450.00
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The Panel has assessed \$7,725.00 of the hearing session fees to Claimant.

The Panel has assessed \$7,725.00 of the hearing session fees to Wells Fargo.

All balances are payable to FINRA Office of Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Ray J. Grzebielski	-	Public Arbitrator, Presiding Chairperson
Elizabeth C. Burton	-	Public Arbitrator
Robert J. Larson	-	Non-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.

Concurring Arbitrators' Signatures

Ray J. Grzebielski

Ray J. Grzebielski
Public Arbitrator, Presiding Chairperson

01/17/2020

Signature Date

Elizabeth C. Burton

Elizabeth C. Burton
Public Arbitrator

01/17/2020

Signature Date

Dissenting Arbitrator's Signature

I concur in part, dissenting only to the expungement of the customer complaints from the CRD and the changes to the Form U5.

Robert J. Larson

Robert J. Larson
Non-Public Arbitrator

01/18/2020

Signature Date

January 20, 2020

Date of Service (For FINRA Office of Dispute Resolution office use only)