Award  
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant  
James Michael O'Leary

vs.

Respondent  
Pruco Securities, LLC

Case Number: 18-04185  
Hearing Site: Denver, Colorado

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES


CASE INFORMATION

Statement of Claim filed on or about: December 10, 2018.  
Claimant signed the Submission Agreement: December 10, 2018.

Statement of Answer filed by Respondent on or about: January 31, 2019.  

CASE SUMMARY

Claimant asserted a claim seeking expungement of a customer complaint, occurrence number 707895 ("Underlying Complaint") from his Central Registration Depository ("CRD") records.

In the Statement of Answer, Respondent neither joined in, nor opposed Claimant’s request for expungement of the Underlying Complaint.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of the Underlying Complaint from Claimant’s U4 and BrokerCheck® Report, and $1.00 in damages.
In the Statement of Answer, Respondent requested:
1. Denial of Claimant’s request for $1.00 in damages; and
2. All forum fees for hearing sessions be assessed to Claimant.

**OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrator acknowledges that he has read the pleadings and other materials filed by the parties.

This case was administered under the Special Proceeding option for simplified cases.

On August 7, 2019, Claimant provided notice that the Statement of Claim and notice of the expungement hearing was served on the customer in the Underlying Complaint (“Customer”).

On August 13, 2019, Claimant submitted his current BrokerCheck® Report, the March 18, 2000 correspondence from the Customer’s original complaint, and the response from Prudential dated March 27, 2000 and April 6, 2000 to FINRA.

The Arbitrator conducted a recorded telephonic hearing on August 13, 2019 so the parties could present oral argument and evidence on Claimant’s request for expungement. Respondent participated in the expungement hearing and took no position regarding the request for expungement. The Arbitrator found that the Customer had notice of the expungement hearing and chose not to attend.

The Arbitrator reviewed Claimant’s BrokerCheck® Report.

As the Underlying Complaint was denied, the Arbitrator noted that there were no settlement documents to review.

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

In recommending expungement the Arbitrator relied upon the following documentary or other evidence: Claimant’s BrokerCheck® Report; the notice to the Customer; Respondent’s response to the customer complaint; and Claimant’s testimony.

The parties present at the hearing have agreed that a handwritten, signed Award may be entered.

**AWARD**

After considering the pleadings, the testimony and evidence presented at the 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 707895 from registration records maintained by the CRD, for Claimant.
James Michael O'Leary (CRD# 1058978), with the understanding that, pursuant to Notice to Members 04-16, Claimant James Michael O'Leary 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 Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is false.

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

The Customer may have felt hurried during the presentation and signing of the annuity contract, but was provided the necessary disclosures and had 10 more days to think over whether he wanted to void the transaction, but did not do so. The asset allocation questionnaire completed at the time of the sale indicated the Customer had a different intention at that time than what is stated in the customer complaint.

2. Claimant’s request for $1.00 in damages 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 Office of Dispute Resolution assessed a filing fee* for each claim:

- Initial Claim Filing Fee = $50.00

*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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

- Member Surcharge = $150.00

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 that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single arbitrator @ $50.00/session = $50.00
Pre-hearing conference: April 1, 2019 1 session

One (1) hearing session on expungement request @ $50.00/session = $50.00
Hearing Date: August 13, 2019 1 session

Total Hearing Session Fees = $100.00

The Arbitrator has assessed $100.00 of the hearing session fees to Claimant.

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

Charles G. Michaels - 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

[Signature]
Charles G. Michaels
Sole Public Arbitrator

10/2/2019
Signature Date

October 3, 2019
Date of Service (For FINRA Office of Dispute Resolution office use only)