

Anchin Alert

Anchin, Block & Anchin LLP
Accountants and Advisors

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Arbitration Panel Did Not Exceed Authority

It is very difficult to have an arbitrator's decision and award vacated. There are only a few circumstances in which a court will vacate an arbitrator's decision and award. One of those circumstances is when the arbitrator or the arbitration panel exceeds authority.

In a case¹ recently reported on in the *New York Law Journal*, a court did not vacate a FINRA arbitral panel's decision. The petitioner and her husband, who live in Colombia, had a Wells Fargo brokerage account ending in 0100 ("the 0100 Account"). After the husband died and under Colombia's intestacy law, one-half of his estate went to his wife (the petitioner) and the other half went to their five children, specifying two. The petitioner opened another Wells Fargo brokerage account, this one ending in 1285 ("the 1285 Account") and listed herself as the primary owner and two of the children under the heading "Account Registration & Instructions." The 1285 Account held the petitioner's 0100 Account funds.

Wells Fargo refused the petitioner's request to transfer the 1285 Account to UBS Switzerland because the children did not join in on the request to transfer the 1285 Account. A FINRA arbitral panel denied the petitioner's request to require the transfer of the 1285 Account. It also limited withdrawals from the 1285 Account to \$7,500 monthly unless all three account holders (the petitioner and two specified children) submitted a signed request. The district court upheld the FINRA arbitral panel's decision finding that the panel did not exceed its authority nor did it disregard the law about convenience accounts. In confirming the award, the court noted it was within the panel's authority under the client agreement and the relief sought by the parties in their pleadings. The court also found that the petitioner did not show that the arbitration procedure deviated from the terms of the parties' agreement.

Dennis Neier of Anchin, Block & Anchin's Litigation, Forensic and Valuation Services Group is a member of the American Arbitration Association's commercial and consumer arbitration panels, as well as FINRA's and the International Institute for Conflict Prevention and Resolutions' panels.

For more information, contact Dennis Neier at 212.840.3456.

¹Gomez de Hernandez v. Wells Fargo Advisors LLC, 16 Civ. 9922 (July 20)

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