

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Mark Alan Elko

Case Number: 19-02827

vs.

Respondent  
HSBC Securities (USA) Inc.

Hearing Site: New York, New York

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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 Mark Alan Elko: John D. Stewart, Esq., Baritz & Colman LLP, New York, New York.

For Respondent HSBC Securities (USA) Inc.: Allan S. Bloom, Esq., Proskauer Rose LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: September 19, 2019.  
Mark Alan Elko signed the Submission Agreement: September 19, 2019.

Statement of Answer filed by Respondent on or about: November 12, 2019.  
Amended Statement of Answer filed on or about: April 20, 2021.  
HSBC Securities (USA) Inc. signed the Submission Agreement: November 12, 2019.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: wrongful termination and expungement of disclosure on Claimant's Form U5 as the disclosure is false and defamatory.

Unless specifically admitted in the Statement of Answer and Amended Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested an order recommending that (a) the disclosure event on Claimant's CRD record relating to Occurrence Number 2014203 be expunged and (b) Claimant be awarded the sum of \$1.00 in compensatory damages.

In the Statement of Answer, Respondent requested that the Statement of Claim be dismissed with prejudice and in its entirety and that Respondent be awarded such other and further relief as deemed just and appropriate.

In the Amended Statement of Answer, Respondent did not oppose Claimant's request for expungement of certain information from his Form U5 but objected to any request for compensatory or other monetary damages.

At the hearing, Claimant withdrew the request for \$1.00 in damages.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the 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 the Reason for Termination and Termination Explanation in Section 3 of Mark Alan Elko's (CRD Number 1124191) Form U5 filed by HSBC Securities (USA) Inc. on January 24, 2019 and maintained by the Central Registration Depository ("CRD"). The Reason for Termination shall be changed to "Voluntary" and the Termination Explanation should be deleted in its entirety and shall appear blank. This directive shall apply to all references to the Reason for Termination and Termination Explanation.

The Arbitrator further recommends the expungement of all references to Occurrence Number 2014203 from the registration records maintained by the CRD for Mark Alan Elko. Any "Yes" answers should be changed to "No," as applicable.

The Arbitrator recommends expungement based on the defamatory nature of the information. The above recommendations are made with the understanding that the registration records are not automatically amended. Mark Alan Elko must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure Department for review.



**ARBITRATOR**

Kathleen P. Helbig-Hannan

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

**Arbitrator's Signature**

***Kathleen P. Helbig-Hannan***

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Kathleen P. Helbig-Hannan  
Sole Public Arbitrator

**04/27/2021**

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Signature Date

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April 28, 2021

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