

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

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In the Matter of the Arbitration Between:

Claimant  
Raymond Walter Robert Borota II

Case Number: 20-01419

vs.

Respondent  
Aegis Capital Corp.

Hearing Site: Dallas, Texas

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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 Raymond Walter Robert Borota II (“Claimant”): Jennifer P. Farrar, Esq., Farrar Law, PLLC, Tomball, Texas.

For Respondent Aegis Capital Corp. (“Respondent”): Timothy Treble and Kevin Meade, Aegis Capital Corp., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: July 7, 2020.

Amended Statement of Claim filed on or about: April 27, 2021.

Claimant signed the Submission Agreement: May 29, 2020.

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

**CASE SUMMARY**

In the Statement of Claim, amended, Claimant asserted a claim seeking expungement of customer dispute information from registration records maintained by the Central Registration Depository (“CRD”).

**RELIEF REQUESTED**

In the Statement of Claim, as amended, Claimant requested expungement of Occurrence Numbers 1630421 and 1697417, compensatory damages in the amount of \$1.00, and any and

all other relief that the Arbitrator deems just and equitable.

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

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

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

Respondent did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure (“Code”) and is bound by the determination of the Arbitrator on all issues submitted.

On April 27, 2021, Claimant filed an Unopposed Motion to Amend the Statement of Claim, to which no response was filed. In an Order dated May 11, 2021, the Arbitrator granted the Unopposed Motion to Amend the Statement of Claim.

On April 14, 2021, Claimant advised that the customers in Occurrence Number 1630421 and Occurrence Number 1697417 (“Customers”) were served with the Amended Statement of Claim and notice of the date and time of the expungement hearing (“Notice”). On June 25, 2021, Claimant filed a Declaration confirming that the Customers were served with the Notice. Claimant also filed a copy of the USPS tracking information available online for the Notice.

The Arbitrator conducted a recorded hearing by videoconference on June 29, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent did not participate in the expungement hearing.

The Customers also did not participate in the expungement hearing. The Arbitrator found that the Customers 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 was unable to review the settlement documentation related to Occurrence Number 1697417. Claimant submitted an affidavit that stated he could not locate the settlement document despite diligent efforts. Based on Claimant’s testimony and the evidence, the Arbitrator noted that Claimant did not contribute to the settlement amount and considered the amount of payment made to any party to the settlement.

The Arbitrator noted that the dispute related to Occurrence Number 1630421 was not settled and, therefore, there was no settlement documentation to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant’s testimony and exhibits.

### **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 Numbers 1630421 and 1697417 from registration records maintained by the CRD for Claimant Raymond Walter Robert Borota II (CRD Number 1950804) with the understanding that, pursuant to Notice to Members 04-16, Claimant Raymond Walter Robert Borota II 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 finding of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

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

**Occurrence Number 1630421**

Claimant mentioned, in passing, to the customer the possibility of putting in a stop-loss order. The customer indicated that she would think about the suggestion and get back to Claimant. When they next talked, the customer advised Claimant that she did not want to put in a stop-loss order.

**Occurrence Number 1697417**

The customers were never sold unsuitable investments. They willingly accepted the costs and risks associated with owning more speculative investments, due to their hope of obtaining above-market returns.

2. 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 Dispute Resolution Services assessed a filing fee\* for each claim:

Initial Claim Filing Fee	= \$	50.00
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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 is assessed the following:

Member Surcharge = \$ 150.00

**Postponement Fees**

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

February 12, 2021, March 15, 2021, and April 28, 2021 postponement requested by Claimant = \$ 150.00

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Total Postponement Fees = \$ 150.00

The Arbitrator has assessed the total postponement fees to Claimant.

**Last-Minute Cancellation Fees**

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

February 12, 2021, cancellation requested by Claimant = \$ 600.00

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Total Last-Minute Cancellation Fees = \$ 600.00

The Arbitrator has assessed the total last-minute cancellation fees to Claimant.

**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) pre-hearing session @ \$50.00/session = \$ 50.00  
Pre-Hearing Conference: November 3, 2020 1 session

Three (3) hearing sessions on expungement request @ \$50.00/session = \$ 150.00  
Hearings: February 5, 2021 1 session  
June 29, 2021 2 sessions

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Total Hearing Session Fees = \$ 200.00

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**

Mark L. Williams

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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**

***Mark L. Williams***

Mark L. Williams  
Sole Public Arbitrator

**07/15/2021**

Signature Date

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July 15, 2021

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