

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

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In the Matter of the Arbitration Between:

Claimants

Trillium Partners LP  
Livingston Asset Management LLC  
Oscaleta Partners LLC  
Queenston Partners LP

Case Number: 20-01731

vs.

Respondents

Lek Securities Corporation  
Samuel Frederik Lek  
Charles Frederik Lek  
Michael David Mainwald  
David Jay Weiniger  
Ramute Julia Zukas

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: Customers vs. Member and Associated Persons

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimants Trillium Partners LP, Livingston Asset Management LLC, Oscaleta Partners LLC, and Queenston Partners LP: Steven Hicks, Trillium Partners LP, New York, New York.

For Respondents Lek Securities Corporation, Samuel Frederik Lek, Charles Frederik Lek, Michael David Mainwald, David Jay Weiniger, and Ramute Julia Zukas: Adam M. Felsenstein, Esq., Tannenbaum Helpert Syracuse & Hirschtritt LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: June 2, 2020.

Answer to Counterclaim filed on or about: August 6, 2020.

Trillium Partners LP signed the Submission Agreement: June 1, 2020.

Livingston Asset Management LLC signed the Submission Agreement: June 1, 2020.  
Oscaleta Partners LLC signed the Submission Agreement: June 1, 2020.  
Queenston Partners LP signed the Submission Agreement: June 1, 2020.

Statement of Answer filed by Respondents and Counterclaim filed by Lek Securities Corporation on or about: July 28, 2020.

Lek Securities Corporation signed the Submission Agreement: July 28, 2020.

David Jay Weiniger signed the Submission Agreement: July 27, 2020.

Ramute Julia Zukas signed the Submission Agreement: July 27, 2020.

Samuel Frederik Lek signed the Submission Agreement: July 28, 2020.

Charles Frederik Lek signed the Submission Agreement: July 28, 2020.

Michael David Mainwald signed the Submission Agreement: July 28, 2020.

### **CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: breach of contract; violation of industry rules; respondeat superior; failure to supervise; negligence; common law and statutory fraud; and violation of statutory law. The causes of action relate to various securities.

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

In the Counterclaim, Respondent Lek Securities Corporation asserted the following cause of action: breach of contract

Unless specifically admitted in the Answer to Counterclaim, Claimants denied the allegations made in the Counterclaim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested compensatory damages in an amount no less than \$2,804,880.05 plus interest at 9% per annum from the date of filing this claim; punitive damages; interest; attorneys' fees and costs.

In the Statement of Answer and Counterclaim, Respondents requested an award dismissing Claimants' claim in their entirety; awarding Respondents' costs, expenses and reasonable attorneys' fees; awarding Respondent Lek Securities Corporation damages in an amount to be determined at the hearing; and granting such other and further relief as deemed just and proper.

In the Answer to the Counterclaim, Claimants requested that the Counterclaim be denied in full.

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

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

On August 18, 2021, Respondents filed a Motion for Pre-hearing Conference to resolve outstanding discovery issues and set new deadlines to which no response was filed.

On September 8, 2021, the Panel issued an Order stating in part that: “The Respondents have moved for discovery and the Claimants have not answered...the first hearing in this matter will be held by Zoom on Monday, September 20, 2021, the date previously scheduled. If the Claimants do not respond and do not have adequate explanation for their failure to respond to the motion, the Panel will entertain a motion by the Respondents to dismiss the proceeding with prejudice. If the Claimants do appear and have an explanation for the failure to respond to the discovery motion, the Panel will hear the Respondents in regard to the explanation, then adjourn to determine how to act upon it, and resume to announce their decision. If the Claimants do not appear and/or do not have an adequate explanation as to their failure to respond to the motion for discovery, the Panel will dismiss, or entertain a motion to dismiss, the proceeding with prejudice. In the meantime, the other scheduled hearings are adjourned sine die”.

Claimants did not appear at the September 20, 2021 hearing despite repeated attempts by FINRA and Respondents to contact Claimants. Respondents made an oral request at the hearing for the dismissal of Claimants’ claims. The Panel granted Respondents request to dismiss without prejudice. The Panel’s September 20, 2021 Order stated that “If the Claimants appear, a hearing date will be set for the Claimants to give adequate explanation for their failure to appear and for their failure to respond to Respondents’ discovery motion and motion to dismiss. Claimants did not respond to the Panel’s September 20, 2021 Order.

On November 18, 2021, Respondents filed a notice withdrawing the Counterclaim against Claimants without prejudice. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Counterclaim.

The Award in this matter may be executed in counterpart copies.

**AWARD**

After considering the pleadings, 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. Claimants’ claims are dismissed with prejudice.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, and attorneys’ fees, are denied.

**FEES**

Pursuant to the Code of Arbitration Procedure (“Code”), the following fees are assessed:

**Filing Fees**

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

Initial Claim Filing Fee	= \$ 2,000.00
Counterclaim Filing Fee	= \$ 1,700.00

*\*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 that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent Lek Securities Corporation is assessed the following:

Member Surcharge	= \$ 3,025.00
Member Process Fee	= \$ 6,175.00

**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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ \$1,400.00/session	= \$ 1,400.00
Pre-Hearing Conference: October 19, 2020	1 session
One (1) hearing session @ \$1,400.00/session	= \$ 1,400.00
Hearings: September 20, 2021	1 session
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Total Hearing Session Fees	= \$ 2,800.00

The Panel has assessed \$2,100.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$700.00 of the hearing session fees jointly and severally to Respondents.

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

**ARBITRATION PANEL**

Martin Mushkin	-	Public Arbitrator, Presiding Chairperson
Peter A. Goldman	-	Public Arbitrator
Edmund Timothy Donovan	-	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.

**Concurring Arbitrators' Signatures**

***Martin Mushkin***

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Martin Mushkin  
Public Arbitrator, Presiding Chairperson

**12/02/2021**

\_\_\_\_\_  
Signature Date

***Peter A. Goldman***

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Peter A. Goldman  
Public Arbitrator

**12/02/2021**

\_\_\_\_\_  
Signature Date

***Edmund Timothy Donovan***

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Edmund Timothy Donovan  
Public Arbitrator

**12/03/2021**

\_\_\_\_\_  
Signature Date

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December 06, 2021

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