

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

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In the Matter of the Arbitration Between:

Claimant  
Todd Allen Lester

Case Number: 20-02178

vs.

Respondent  
Securities America, Inc.

Hearing Site: Indianapolis, Indiana

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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

**REPRESENTATION OF PARTIES**

For Claimant Todd Allen Lester (“Claimant”): Chelsea Masters, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Securities America, Inc. (“Respondent”): Tyler Schubauer, Esq., Securities America, Inc., La Vista, Nebraska.

**CASE INFORMATION**

Statement of Claim filed on or about: July 10, 2020.  
Claimant signed the Submission Agreement: July 10, 2020.

Statement of Answer filed on or about: September 14, 2020.  
Respondent signed the Submission Agreement: July 21, 2020.

**CASE SUMMARY**

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

In the Statement of Answer, Respondent did not oppose Claimant’s expungement request.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Occurrence Number 1541871, compensatory damages in the amount of \$1.00, and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that Claimant's request for compensatory damages be denied and that all forum fees in connection with the expungement request be assessed against Claimant.

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.

On September 4, 2020, Claimant filed a Motion to Bar Defenses Due to Untimely Answer ("Motion to Bar"), to which no response was filed. On November 3, 2020, the Arbitrator held an Initial Prehearing Conference. In an Order dated the same day, the Arbitrator denied the Motion to Bar.

On January 26, 2021, Claimant advised that the customer in Occurrence Number 1541871 ("Customer") was served with the Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On February 1, 2021, Claimant filed an Affidavit confirming the Customer was served with the Notice. Claimant also filed a copy of the FedEx tracking information available online for the Notice.

The Arbitrator conducted a recorded, telephonic hearing on March 8, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement.

The Customer did not participate in the expungement hearing. The Arbitrator found that the Customer 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 also reviewed the settlement documentation related to Occurrence Number 1541871, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report, the Notice, the settlement agreement, and 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 Number 1541871 from registration records maintained by the CRD for Claimant Todd Allen Lester (CRD Number 2619323) with the understanding that, pursuant to Notice to Members 04-16, Claimant Todd Allen Lester 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 of Arbitration Procedure (“Code”), the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and

The claim, allegation, or information is false.

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

Claimant performed extensive due diligence on the related investment, in addition to relying on the investigation performed by Respondent. The investment was thoroughly explained to the Customer, who had extensive investment experience. Initially, the investment appeared to be appropriately positioned for the Customer’s goals and performed as expected. Both the Customer and Claimant were victims of the same scheme that the investment sponsor had long conducted before being exposed through an SEC investigation. Claimant had invested a comparable proportion of his own net worth in the same type of investment from the sponsor and lost its entire value without ever receiving a dividend. Claimant was not named in the settlement and did not contribute anything towards its payment. Further, the Customer continued in the established advisory relationship for many years after filing the complaint.

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

Member Surcharge Fee = \$ 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, 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

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00  
Hearing: March 8, 2021 1 session

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Total Hearing Session Fees = \$ 100.00

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**

Gregory G. Gocek

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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**

***Gregory G. Gocek***

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Gregory G. Gocek  
Sole Public Arbitrator

**03/19/2021**

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Signature Date

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March 20, 2021

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