

**Amended Award
FINRA Dispute Resolution Services**

In the Matter of the Arbitration Between:

Claimant
Mark Sam Kolta

Case Number: 20-02450

vs.

Respondent
Aegis Capital Corp.
National Securities Corporation

Hearing Site: New York, New York

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. Members

This case was administered under the Special Proceeding option for simplified cases.

REPRESENTATION OF PARTIES

For Claimant Mark Sam Kolta: Tosh Grebenik, Esq., Judex Law LLC, Broomfield, Colorado.

For Respondent Aegis Capital Corp. (“Aegis Capital”): Daniel Scott Furst, Esq., Sichenzia, Ross, Ference, LLP, New York, New York.

For Respondent National Securities Corporation (“National Securities”): Emily A. Hayes, Esq., National Securities Corporation, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: July 30, 2020.
Mark Sam Kolta signed the Submission Agreement: July 30, 2020.

Statement of Answer filed by Respondent Aegis Capital on or about: October 29, 2020.
Amended Statement of Answer filed by Respondent Aegis Capital on or about: November 1, 2020.
Aegis Capital Corp. signed the Submission Agreement: November 3, 2020.

Statement of Answer filed by Respondent National Securities on or about: October 29, 2020.
National Securities Corporation signed the Submission Agreement: September 28, 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, as amended, Respondent Aegis Capital denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Statement of Answer, Respondent National Securities took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 2018391 1982088, and 1985747; compensatory damages in the amount of \$1.00 from each Respondent; and any and all other relief that the Arbitrator deemed just and equitable.

In its Statement of Answer, as amended, Respondent Aegis Capital did not delineate a relief request.

In its Statement of Answer, Respondent National Securities requested the assessment of all forum fees and costs, including any member surcharges against Claimant.

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

OTHER ISSUES CONSIDERED AND DECIDED

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

On February 8, 2021, Claimant advised that the customers in Occurrence Numbers 2018391 (“Customer A”), 1982088 (“Customer B”), and 1985747 (“Customer C”), (collectively “Customers”) were served with the Statement of Claim and notice of the date and time of the expungement hearing. On June 7, 2021, Claimant filed an Affidavit confirming that the Customers were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted recorded, telephonic hearings on June 8, 2021 and June 9, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent Aegis Capital participated in the expungement hearing and opposed the request for expungement.

Respondent National Securities participated in the expungement hearing and did not oppose the request for expungement.

The Customers also participated in the expungement hearing and opposed the expungement request.

On or about June 8, 2021, Customer A filed an opposition to Claimant's Request for Expungement.

On or about June 10, 2021, Customer B submitted a post-hearing statement in response to the Arbitrator's request for additional information.

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 occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Numbers 2018391, 1985747, and 1982088 considered the amounts of payments made to any party to the settlements and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request and that Claimant did not contribute to the settlement amounts.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim; the underlying Customers' Statements of Claim in their underlying arbitrations; and oral testimony presented at the hearing.

The Award was amended to reflect that Claimant withdrew his request for \$1.00 in damages from each Respondent at the hearing.

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 2018391, 1982088, and 1985747 from registration records maintained by the CRD for Claimant Mark Sam Kolta (CRD Number 5324620) with the understanding that, pursuant to Notice to Members 04-16, Claimant Mark Sam Kolta 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.

The claim, allegation, or information is false.

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

Based on the papers submitted and the oral testimony presented at the hearing, Claimant's oral statements were sincere and dispositive of the fact that he did not commit any of the actions that were alleged in the underlying customers' allegations. In addition, the underlying customers presented no proof to defend their allegations. Claimant was convincing in his defense of why he chose the investments he chose (including those which he chose for his own mother). Many of the other customer complaints were more personal attacks against the Claimant and did not support a denial of the expungement process which was the primary purpose of the hearing.

2. Respondents shall pay Claimants \$25.00 as reimbursement of the non-refundable portion of the filing fee previously paid by Claimant to FINRA Dispute Resolution Services.
3. 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

**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 parties, Respondents Aegis Capital Corp. and National Securities Corporation are each assessed the following:

Member Surcharge = \$ 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:

Two (2) pre-hearing sessions with a single Arbitrator @ \$50.00/session = \$ 100.00
Pre-Hearing Conferences: December 9, 2020 1 session
May 3, 2021 1 session

Four (4) hearing sessions on expungement request @ \$50.00/session = \$ 200.00
Hearings: June 8, 2021 2 sessions
June 9, 2021 2 sessions

Total Hearing Session Fees = \$ 300.00

The Arbitrator has assessed \$250.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$50.00 of the hearing session fees jointly and severally to Respondents.

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

ARBITRATOR

Carolyn A. Mann

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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

Carolyn A. Mann

Carolyn A. Mann
Sole Public Arbitrator

08/07/2021

Signature Date

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August 09, 2021

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