

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Stuart Leighton Updegrave

Case Number: 20-02454

vs.

Respondents

National Securities Corporation
Eastbrook Capital Group LLC

Hearing Site: Hartford, Connecticut

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 Stuart Leighton Updegrave: Tosh Grebenik, Esq., Judex Law, LLC, Broomfield, Colorado.

Respondent National Securities Corporation: Emily Hayes, Esq., National Holdings Corporation, New York, New York.

Respondent Eastbrook Capital Group LLC did not enter an appearance in this matter

CASE INFORMATION

Statement of Claim filed on or about: July 30, 2020.

Stuart Leighton Updegrave signed the Submission Agreement: July 30, 2020.

Statement of Answer filed by Respondent National Securities Corporation on or about: October 8, 2020.

National Securities Corporation signed the Submission Agreement: October 8, 2020.

Respondent Eastbrook Capital Group LLC did not submit a Statement of Answer or sign the Submission Agreement.

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 National Securities Corporation took no position on Claimant’s expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1451554, 1465422, and 1490116; and compensatory damages in the amount of \$1.00 from each Respondent.

In the Statement of Answer, Respondent National Securities Corporation requested that the Arbitrator assess all forum fees and costs, including any member surcharges incurred in this proceeding, against Claimant.

By correspondence dated August 17, 2021, 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.

Respondent Eastbrook Capital Group LLC did not file a Statement of Answer or 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.

By correspondence dated August 9, 2021, Respondent National Securities Corporation notified FINRA that it will not attend the expungement hearing and that it supports Claimant’s request for expungement.

On August 11, 2021, Claimant advised that the customers in Occurrence Numbers 1451554, 1465422, and 1490116 (“customers”) were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded, telephonic hearing on August 12, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondents Eastbrook Capital Group LLC and National Securities Corporation did not participate in the expungement hearing.

The customers in Occurrence Numbers 1451554, 1465422, and 1490116 also did not participate in the expungement hearing. The customer in Occurrence Number 1465422 supported Claimant’s expungement. The Arbitrator found that the customers in Occurrence Numbers 1451554, 1465422, and 1490116 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 occurrences in the CRD.

The Arbitrator noted that the disputes related to Occurrence Numbers 1451554, 1465422, and 1490116 were not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the pleadings, exhibits, oral argument of the Claimant's attorney, Claimant's testimony, and Claimant's BrokerCheck® Report.

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 1451554 from registration records maintained by the CRD for Claimant Stuart Leighton Updegrave (CRD Number 2273334) with the understanding that, pursuant to Notice to Members 04-16, Claimant Stuart Leighton Updegrave 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 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:

Claimant was not in any way connected to the customer, either as a broker or supervisor, and had no control of the account in question.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1465422 from registration records maintained by the CRD for Claimant Stuart Leighton Updegrave (CRD Number 2273334) with the understanding that, pursuant to Notice to Members 04-16, Claimant Stuart Leighton Updegrave 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 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:

A manager of the company that was the customer misrepresented his position and authority regarding the complaint. The Chairman of the Board sent a withdrawal letter to Respondent National Securities Corporation on behalf of the customer immediately after he found out about the complaint. The withdrawal letter stated that the letter written by the manager was sent without the review of the Board of Directors.

3. The Arbitrator recommends the expungement of all references to Occurrence Number 1490116 from registration records maintained by the CRD for Claimant Stuart Leighton Updegrave (CRD Number 2273334) with the understanding that, pursuant to Notice to Members 04-16, Claimant Stuart Leighton Updegrave 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 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:

The customer falsely alleged unauthorized trading and high-pressure sales. The customer clearly was untruthful about the fact pattern and as an accredited investor took no further action when the brokerage investigation ruled against him.

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 person at the time of the events giving rise to the dispute. Accordingly, as parties, Respondents Eastbrook Capital Group LLC 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:

One (1) pre-hearing session with a single Arbitrator @ \$50.00/session =\$ 50.00
Pre-Hearing Conference: February 23, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session =\$ 50.00
Hearing: August 12, 2021 1 session

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

Samuel H. Chorches

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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

Samuel H. Chorches

Samuel H. Chorches
Sole Public Arbitrator

08/19/2021

Signature Date

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.

August 19, 2021

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