

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

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In the Matter of the Arbitration Between:

Claimant  
Norman David Eccarius

Case Number: 20-02974

vs.

Respondent  
Saxony Securities, Inc.

Hearing Site: St. Louis, Missouri

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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 Norman David Eccarius (“Claimant”): Erika Binnix, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Saxony Securities, Inc. (“Respondent”): Ryan C. Klump, COO, Saxony Securities, Inc., St. Louis, Missouri.

**CASE INFORMATION**

Statement of Claim filed on or about: September 4, 2020.  
Amended Statement of Claim filed on or about: September 10, 2020.  
Claimant signed the Submission Agreement: September 3, 2020.

Statement of Answer to the Statement of Claim filed on or about: October 26, 2020.  
Amended Statement of Answer to the Amended Statement of Claim filed on or about: December 17, 2020.  
Respondent signed the Submission Agreement: October 26, 2020.

**CASE SUMMARY**

In the Amended 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 Amended Answer to the Amended Statement of Claim, Respondent objected to the Statement of Claim to the extent that it alleged Respondent engaged in any wrongdoing and asserted an affirmative defense, but did not oppose Claimant’s expungement request.

### **RELIEF REQUESTED**

In the Amended Statement of Claim, Claimant requested expungement of Occurrence Numbers 1374029 and 1592651, compensatory damages in the amount of \$1.00, and any and all other relief that the Arbitrator deems just and equitable.

In the Amended Statement of Answer to the Amended Statement of Claim, Respondent requested denial of Claimant's request for \$1.00 in compensatory damages and that all forum fees 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 April 16, 2021, Claimant filed a Death Record for the customer in Occurrence Number 1592651. Claimant also advised that the customer in Occurrence Number 1374029 ("Customer") was served with the Amended Statement of Claim and notice of the date and time of the expungement hearing ("Notice"). On April 19, 2021, Claimant filed an Affidavit confirming that 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 July 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 occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Numbers 1374029 and 1592651, considered the amount of payment 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 contributed to the settlement amounts.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony, Claimant's BrokerCheck® Report, and Claimant's Prehearing Brief.

### **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 1374029 from registration records maintained by the CRD for Claimant Norman David Eccarius (CRD Number 2283467) with the understanding that, pursuant to Notice to Members 04-16, Claimant Norman David Eccarius 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's claim is clearly erroneous as the client received 1099-MISC forms for approximately 10 years before filing the complaint. Claimant testified that the customer checked with him during tax season each year to verify that the 1099-MISC form matched the amount that was charged for managing the Nationwide Annuity before forwarding the information to the customer's accountant. Although Claimant did not feel he had done anything wrong, he did not feel he had any choice but to settle the case for a nominal amount.

2. The Arbitrator recommends the partial expungement of Occurrence Number 1592651 from registration records maintained by the CRD for Claimant Norman David Eccarius (CRD Number 2283467) with the understanding that, pursuant to Notice to Members 04-16, Claimant Norman David Eccarius 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.

The Arbitrator recommends modifying the allegations stated in Item 4 under Occurrence Number 1592651 on Claimant Norman David Eccarius' CRD.

The Arbitrator recommends that Item 4 be modified to state: "Claimant alleges negligent misrepresentation, breach of fiduciary duty, rescission, and unjust enrichment."

Pursuant to Rule 13805 of the 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:

The customer wanted to increase his insurance coverage without increasing his current payments for his insurance policy in his irrevocable life insurance trust ("ILIT"). Claimant suggested to the customer to purchase a new insurance policy and use the cash value in his current insurance policy to pay for the first year (and 1/3 of second year) premium. Then, the customer could use his new policy as collateral for premium, financing the balance of years 2 through 5. Thereafter, the customer would continue to pay the same amount that he was currently paying with increased insurance coverage. Unbeknownst to Claimant, although he had correctly explained to the bank that was providing the premium financing that the bank was to use the new insurance policy in the ILIT as collateral, the bank prepared documents that structured the loan as personal home equity loan. Claimant did not prepare the documents, nor was Claimant given any chance to review the documents which the bank prepared. Written evidence shows the bank admitted the "error" and testimony by Claimant indicates that the bank made a conscious decision not to use the insurance policy in the ILIT as collateral. The Arbitrator finds that the customer's claim of fraud is false and clearly erroneous as there would not have been a problem if the bank had used the insurance policy as collateral.

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
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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
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#### **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: January 25, 2021	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: July 8, 2021 1 session		
<hr/> 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**

Julius Z. Frager

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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**

***Julius Z. Frager***

Julius Z. Frager  
Sole Public Arbitrator

**07/27/2021**

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.

July 27, 2021

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