

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

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In the Matter of the Arbitration Between:

Claimant  
Paul Avila Neves

Case Number: 20-03142

vs.

Respondent  
Securities America, Inc.

Hearing Site: San Diego, California

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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

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

**REPRESENTATION OF PARTIES**

For Claimant Paul Avila Neves (“Claimant”): Tosh Grebenik, Esq., Judex Law, LLC, Broomfield, Colorado.

For Respondent Securities America, Inc. (“Respondent”): Chad Weaver, Esq., Freeman Mathis & Gary, LLP, Seal Beach, California.

**CASE INFORMATION**

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

Statement of Answer filed by Respondent on or about: January 12, 2021.  
Respondent signed the Submission Agreement: January 12, 2021.

**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:

1. Expungement of Occurrence Numbers 1474411 and 1846245 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous, and FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false; and
2. Compensatory damages in the amount of \$1.00 from Respondent.

In the Statement of Answer, Respondent requested:

1. Any request for damages from Respondent be denied; and
2. All forum fees in connection with the hearings on this matter be assessed against Claimant.

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

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

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

On August 17, 2021, Claimant advised that the customers in Occurrence Number 1474411 ("Mr. and Mrs. L") were served with the Statement of Claim and notice of the date and time of the expungement hearing. Claimant also advised that he sent the Statement of Claim and notice of the date and time of the expungement hearing via regular mail and certified mail to the customer in Occurrence Number 1846245 ("Mrs. D"). Notice of the certified mail package was left at the residence. The certified mail package was not claimed by Mrs. D and was therefore returned on July 3, 2021. The Arbitrator found that sufficient efforts had been made to serve Mrs. D and that she had notice of the expungement request and hearing.

Hereinafter, Mr. and Mrs. L, and Mrs. D are collectively referred to as "Customers".

The Arbitrator conducted a recorded, telephonic hearing on September 28, 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 Customers did not participate in the expungement hearing. The Arbitrator found that the Customers 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 1474411 and 1846245, 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 did not contribute to the settlement amounts.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report; pleadings; lack of opposition from the Customers after notification, or from Respondent; non-participation in the settlements; sworn testimony of Claimant; 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 Numbers 1474411 and 1846245 from registration records maintained by the CRD for Claimant Paul Avila Neves (CRD Number 2019963) with the understanding that, pursuant to Notice to Members 04-16, Claimant Paul Avila Neves 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:

#### **Occurrence Number 1846245**

In this instance, contrary to the customer complaint, Claimant established that the investment was suitable, did not involve a breach of fiduciary duty, lack of supervision or fraud, that the customer was fully informed and made his own decisions, and that any losses were unforeseeable and caused by market changes. The Respondent settled for a nominal amount, in which Claimant did not participate. Customer was notified of the hearing but did not participate.

#### **Occurrence Number 1474411**

In this instance, losses were caused by unforeseeable criminal acts from Medical Capital Holdings and affiliates, not Claimant or his broker-dealer. There was a universal settlement approved by government authorities, in which Claimant did not participate.

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 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:

Two (2) pre-hearing sessions with a single Arbitrator @ \$50.00/session	=\$	100.00
Pre-Hearing Conferences: March 3, 2021		1 session
March 10, 2021		1 session

One (1) hearing session on expungement request @ \$50.00/session	=\$	50.00
Hearing: September 28, 2021		1 session

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Total Hearing Session Fees	=\$	150.00
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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**

Kirtley M. Thiesmeyer

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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**

***Kirtley M. Thiesmeyer***

Kirtley M. Thiesmeyer  
Sole Public Arbitrator

**10/07/2021**

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.

October 07, 2021

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