

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

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In the Matter of the Arbitration Between:

Claimant  
Stuart Leighton Updegrave

Case Number: 20-03146

vs.

Respondent  
National Securities Corporation

Hearing Site: New York, New York

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

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

**CASE INFORMATION**

Statement of Claim filed on or about: September 10, 2020.

Stuart Leighton Updegrave signed the Submission Agreement: September 10, 2020.

Statement of Answer filed by Respondent on or about: November 2, 2020.

National Securities Corporation signed the Submission Agreement: November 2, 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 took no position on Claimant’s expungement request.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of Occurrence Numbers 1968191, 1622318, and 1603703; and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent requested that the Arbitrator direct Claimant to pay all forum fees and costs, including any member surcharges, incurred in this proceeding.

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

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

On March 3, 2021, Claimant advised that the customers in Occurrence Numbers 1968191, 1622318, and 1603703 (“Customers”) were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted an in-person hearing on August 10, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent did not participate in the expungement hearing and did not oppose the request for expungement.

The Customers also did not participate in the expungement hearing and did not oppose the expungement request. 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 noted that the disputes related to Occurrence Numbers 1968191, 1622318, and 1603703 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 submission from the Customer in Occurrence Number 1622318, Claimant’s BrokerCheck® Report, and Claimant’s testimony.

### **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. Claimant’s claim for \$1.00 in compensatory damages is denied.
2. The Arbitrator recommends the expungement of all references to Occurrence Number 1968191 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 Updegrove 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 false.

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

The Arbitrator found no indication that the Claimant did anything wrong and the information presented at the hearing states clearly that the complaint was withdrawn on January 22, 2019. The Arbitrator also noted that the customer still maintains a portion of the original account to this day.

3. The Arbitrator recommends the expungement of all references to Occurrence Number 1622318 from registration records maintained by the CRD for Claimant Stuart Leighton Updegrove (CRD Number 2273334) with the understanding that, pursuant to Notice to Members 04-16, Claimant Stuart Leighton Updegrove 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:

The Customer sent a signed letter stating that he still maintains an account with the Claimant and that he misunderstood the situation, that he is very pleased with the work Claimant has provided him and did not realize this would be on the Claimant's record. The Arbitrator noted that the Customer supported the request for expungement.

4. The Arbitrator recommends the expungement of all references to Occurrence Number 1603703 from registration records maintained by the CRD for Claimant Stuart Leighton Updegrove (CRD Number 2273334) with the understanding that, pursuant to Notice to Members 04-16, Claimant Stuart Leighton Updegrove 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 false.

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

This complaint involved an allegation which the customer never substantiated and did not respond to either the Claimant or the Respondent when they responded to his accusations providing specific details on the transactions. As such, the Respondent closed the complaint, taking no action.

### **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 that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent National Securities Corporation 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 with a single Arbitrator @ \$50.00/session	= \$	50.00
Pre-Hearing Conference: January 11, 2021	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: August 10, 2021	1 session	

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Total Hearing Session Fees	= \$	100.00
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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**

Ira A. Auerbach

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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**

***Ira A. Auerbach***

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Ira A. Auerbach  
Sole Public Arbitrator

**08/20/2021**

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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 23, 2021

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