

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

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In the Matter of the Arbitration Between:

Claimant  
Shane Smith

Case Number: 20-03509

vs.

Respondent  
Transamerica Capital, Inc.

Hearing Site: Dallas, Texas

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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

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Shane Smith (“Claimant”): Erika Binnix, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Transamerica Capital, Inc. (“Respondent”): Katherine C. Donlon, Esq., Johnson, Cassidy, Newlon & DeCort, P.A., Tampa, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: October 13, 2020.

Amended Statement of Claim filed on or about: January 27, 2021

Claimant signed the Submission Agreement: October 12, 2020.

Statement of Answer filed on or about: December 23, 2020.

Respondent signed the Submission Agreement: November 2, 2020.

**CASE SUMMARY**

In the Statement of Claim, as amended, Claimant asserted a claim alleging that the Form U5 filed by Respondent, as part of registration records maintained by the Central Registration Depository (“CRD”), is defamatory in nature.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

In the Statement of Claim, as amended, Claimant requested expungement and/or modification of the Form U5 filed by Respondent and relevant portions of the related Form U4, compensatory damages in the amount of \$1.00, and any other relief as the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that Claimant’s request for expungement be denied and that it be awarded attorneys’ fees and costs.

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 January 27, 2021, Claimant filed a Motion to Amend the Statement of Claim (“Motion to Amend”), to which no response was filed. In an Order dated February 19, 2021, the Arbitrator granted the Motion to Amend.

**AWARD**

After considering the pleadings, the testimony and evidence presented at the 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 the Reason for Termination and Termination Explanation in Section 3 of Shane Smith’s (CRD Number 2989881) Form U5 filed by Transamerica Capital, Inc. on June 15, 2020 and maintained by the CRD. The Reason for Termination shall be changed to “Voluntary” and the Termination Explanation should be deleted in its entirety and shall appear blank. This directive shall apply to all references to the Reason for Termination and Termination Explanation.

The Arbitrator recommends expungement based on the defamatory nature of the information. The above recommendations are made with the understanding that the registration records are not automatically amended. Shane Smith must forward a copy of this Award to FINRA’s Credentialing, Registration, Education and Disclosure Department for review.

2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys’ fees, are denied.

**FEES**

Pursuant to the Code of Arbitration Procedure, 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 22, 2021	1 session	
Two (2) hearing sessions @ \$50.00/session	= \$	100.00
Hearings: June 15, 2021	2 sessions	

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Total Hearing Session Fees	= \$	150.00
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The Arbitrator has assessed \$100.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$50.00 of the hearing session fees to Respondent.

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

**ARBITRATOR**

David A. Schuler

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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**

***David A. Schuler***

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David A. Schuler  
Sole Public Arbitrator

**06/21/2021**

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Signature Date

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June 21, 2021

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