

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

---

In the Matter of the Arbitration Between:

Claimant  
Nathan Ritzer

Case Number: 20-03835

vs.

Respondent  
David Lerner Associates, Inc.

Hearing Site: Jersey City, New Jersey

---

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: Customer vs. Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Nathan Ritzer: Jeffrey Erez, Esq., and Stefan Apotheker, Esq., Erez Law, PLLC, Miami, Florida\*.

For Respondent David Lerner Associates, Inc.: Michael G. Shannon, Esq., Ann Stark, Esq., and Riccardo DeBari, Esq., Thompson Hine LLP, New York, New York.

\*FINRA recorded the appearance of Claimant’s counsel at the time of filing of the Statement of Claim. Counsel’s representation of Claimant may have ended with the parties’ settlement. Please see the Other Issues Considered and Decided section of this Award for information on whether Claimant’s counsel appeared at the expungement hearing.

**CASE INFORMATION**

Statement of Claim filed on or about: November 17, 2020.

Nathan Ritzer signed the Submission Agreement: November 7, 2020.

Statement of Answer filed by Respondent on or about: January 22, 2021.

David Lerner Associates, Inc. signed the Submission Agreement: January 22, 2021.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty; negligence; negligent supervision; fraud; and breach of contract. The causes of action relate to investment in Energy 11, L.P. securities.

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, Claimant requested an award for compensatory damages in an amount between \$100,000.00 and \$500,000.00; rescission; interest; costs; attorneys' fees; punitive damages; and such other and further relief the Panel deems just and proper.

In the Statement of Answer, Respondent requested that the Statement of Claim be dismissed in its entirety with prejudice; any recovery by Claimant against Respondent be denied; all forum fees and cost be solely assessed against Claimant; any such other relief as the Panel determines is just and appropriate; and expungement, on behalf of Unnamed Party Richard Henry Eden, of all references to this matter from Central Registration Depository ("CRD") registration records.

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

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On August 5, 2021, Claimant filed a notice of settlement. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On August 26, 2021, Respondent filed a Motion for Expungement, on behalf of Unnamed Party Richard Henry Eden. Claimant did not file a response.

The Panel conducted recorded hearings by videoconference on October 8, 2021 and November 11, 2021, so the parties could present oral argument and evidence on Respondent's request for expungement on behalf of Unnamed Party Richard Henry Eden.

Claimant and his counsel did not participate in the expungement hearing.

The Panel reviewed Unnamed Party Richard Henry Eden's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrence in the CRD.

The Panel also reviewed the settlement documentation, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel noted that the settlement was not conditioned on any party to the settlement not opposing the request for expungement and that Unnamed Party Richard Henry Eden did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: the pleadings, the exhibits, Richard Henry Eden's BrokerCheck® Report, and Richard Henry Eden's testimony.

The Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2107612) from registration records maintained by the CRD for Unnamed Party Richard Henry Eden (CRD Number 2145727) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Richard Henry Eden 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 12805 of the Code, the Panel 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:

Based upon the testimonial and documentary evidence adduced at the hearing, the Panel finds that the claim is clearly erroneous. Claimant met with Mr. Eden before entering into the investment at question and, as evidenced by Claimant's signatures and initials, had, at the least, an opportunity to review and understand the investment. Mr. Eden did not participate in the settlement process or contribute to the settlement amount.

### **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	= \$	1,425.00
Counterclaim Filing Fee	= \$	1,575.00

*\*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 person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent David Lerner Associates, Inc. is assessed the following:

Member Surcharge	= \$	1,900.00
Member Process Fee	= \$	3,750.00

**Hearing Session Fees and Assessments**

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: July 7, 2021	1 session	
One (1) pre-hearing session with the Panel @ \$1,125.00/session	= \$	1,125.00
Pre-Hearing Conference: March 10, 2021	1 session	
Two (2) hearing sessions on expungement request @ \$1,125.00/session	= \$	2,250.00
Hearings: October 8, 2021	1 session	
November 11, 2021	1 session	
<hr/>		
Total Hearing Session Fees	= \$	3,825.00

The Panel has assessed \$787.50 of the hearing session fees to Claimant.

The Panel has assessed \$3,037.50 of the hearing session fees to Respondent, which includes the fees for the expungement hearings.

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

**ARBITRATION PANEL**

Jay Alan Kranis	-	Public Arbitrator, Presiding Chairperson
Sylvia Kaminsky	-	Public Arbitrator
Bryan David Glass	-	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.

**Concurring Arbitrators' Signatures**

***Jay Alan Kranis***

\_\_\_\_\_  
Jay Alan Kranis  
Public Arbitrator, Presiding Chairperson

**12/01/2021**

\_\_\_\_\_  
Signature Date

***Sylvia Kaminsky***

\_\_\_\_\_  
Sylvia Kaminsky  
Public Arbitrator

**12/02/2021**

\_\_\_\_\_  
Signature Date

***Bryan David Glass***

\_\_\_\_\_  
Bryan David Glass  
Public Arbitrator

**11/30/2021**

\_\_\_\_\_  
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.

December 02, 2021

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