

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

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In the Matter of the Arbitration Between:

Claimant  
Kevin Patrick Saia

Case Number: 21-00277

vs.

Respondent  
Calton & Associates, Inc.

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

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Kevin Patrick Saia: Dochter Kennedy, MBA J.D., and Francis Menzer, Esq., AdvisorLaw LLC, Westminster, Colorado.

For Respondent Calton & Associates, Inc.: Debra A. Jenks, Esq., Jenks & Harvey, LLP, West Palm Beach, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: February 1, 2021.

Kevin Patrick Saia signed the Submission Agreement: February 1, 2021.

Statement of Answer filed by Respondent on or about: April 2, 2021.

Calton & Associates, Inc. signed the Submission Agreement: February 8, 2021.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following cause of action: expungement of Form U5/Termination based on the defamatory nature of the entry.

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, Claimant requested an award granting expungement of the Form U5 corresponding with Occurrence Number 1727804, and those relevant portions of the Form U4, from Claimant's CRD record on the basis that the statement is defamatory in nature, misleading, inaccurate, and/or erroneous to include: amendment of the Reason for Termination entry in Section 3 of Claimant's Form U5 to read "Voluntary"; expungement of the Reason for Termination Explanation of Claimant's CRD; amendment of the "Yes" answer to Question 7F(1) of Claimant's Form U5 to "No"; amendment of the "Yes" answer to Question 14J(1) of Claimant's Form U4 to "No"; deletion of the Termination Disclosure Reporting Pages accompanying Occurrence Number 1727804; compensatory damages in the amount of \$1.00 from Respondent; 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.

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.

### **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 Kevin Patrick Saia's (CRD Number 2305710) Form U5 filed by Calton & Associates, Inc. (CRD Number 20999) on October 17, 2014 and maintained by the Central Registration Depository ("CRD"). The Reason for Termination shall be changed to "Voluntary" and the Termination Explanation shall be deleted in its entirety and should appear blank. This directive shall apply to all references to the Reason for Termination and Termination Explanation.

The Arbitrator further recommends the expungement of all references to Occurrence Number 1727804 maintained by the CRD for Kevin Patrick Saia. Any "Yes" answers should be changed to "No," as applicable.

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. Kevin Patrick Saia 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 are denied.

## **FEES**

Pursuant to the Code of Arbitration Procedure (“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

*\*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 is assessed the following:

Member Surcharge =\$ 150.00

### **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: June 4, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session =\$ 50.00  
Hearing: October 27, 2021 1 session

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Total Hearing Session Fees =\$ 100.00

The Arbitrator has assessed \$50.00 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**

Ronald Harris Kisner

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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**

***Ronald Harris Kisner***

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Ronald Harris Kisner  
Sole Public Arbitrator

**11/01/2021**

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

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November 01, 2021

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