

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

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In the Matter of the Arbitration Between:

Claimant  
Scot Samuel Fairchild

Case Number: 21-00382

vs.

Respondent  
Lucia Securities, LLC

Hearing Site: Las Vegas, Nevada

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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

**REPRESENTATION OF PARTIES**

For Claimant Scot Samuel Fairchild (“Claimant”): Zachary Morse, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Lucia Securities, LLC (“Respondent”): Tiy O’Neal, Lucia Capital Group, San Diego, California.

**CASE INFORMATION**

Statement of Claim filed on or about: February 11, 2021.  
Claimant signed the Submission Agreement: February 11, 2021.

Statement of Answer filed by Respondent on or about: March 9, 2021.  
Respondent signed the Submission Agreement: March 15, 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 2016457 and 2059040 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;
2. Expungement of Occurrence Numbers 2016457 and 2059040 from Claimant's CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false;
3. Deletion of all Disclosure Reporting Pages accompanying Occurrence Numbers 2016457 and 2059040; and
4. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not set forth a specific request for relief.

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

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

On April 22, 2021, the parties agreed to proceed with a single arbitrator for this matter.

On October 25, 2021, Claimant advised that the customers in Occurrence Numbers 2016457 ("Mr. and Mrs. F") and 2059040 ("Mrs. G and Mr. S") were served with the Statement of Claim and notice of the date and time of the expungement hearing. On November 2, 2021, Claimant filed an Affidavit confirming that Mr. and Mrs. F, Mrs. G, and Mr. S were served with the Statement of Claim and notice of the date and time of the expungement hearing.

Hereinafter, Mr. and Mrs. F, Mrs. G, and Mr. S are collectively referred to as "Customers".

The Arbitrator conducted a recorded, telephonic hearing on November 30, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did not participate in the expungement hearing.

The Customers also 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 2016457 and 2059040, 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 contributed to the settlement amounts. The contributions by Claimant in the settlement documentation were part of his errors and omissions policy through an agreement of his employment at Respondent to pay for half of any settled claim or judgment. Arbitrator noted that expungement is still appropriate as the

contribution amounts were nominal and Claimant contributed to the settlements to avoid the cost of litigation.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim with exhibits and Claimant's testimony provided at the expungement hearing.

### **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 2016457 and 2059040 from registration records maintained by the CRD for Claimant Scot Samuel Fairchild (CRD Number 2323211) with the understanding that, pursuant to Notice to Members 04-16, Claimant Scot Samuel Fairchild 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 underlying Customers' account returns were positive, they did not express any dissatisfaction with Claimant, and their investments were within their risk tolerances, net worth, and investment objectives. In fact, Mr. and Mrs. F referred Mrs. G and Mr. S to Claimant. Each of the underlying Customers had regular communications with Claimant and was fully aware of the risks and potential rewards of each issue. While the total amount of the alternative investments was extensive for any account, it was at the request of the Customers. The claims are false.

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	= \$ 1,575.00
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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 person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

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

**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 @ \$1,125.00/session	= \$	1,125.00
Pre-Hearing Conference: June 1, 2021	1 session	
One (1) hearing session on expungement request @ \$1,125.00/session	= \$	1,125.00
Hearing: November 30, 2021	1 session	
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Total Hearing Session Fees	= \$	2,250.00

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**

Milton N. Gross

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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**

***Milton N. Gross***

Milton N. Gross  
Sole Public Arbitrator

**12/17/2021**

Signature Date

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December 17, 2021

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