

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

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In the Matter of the Arbitration Between:

Claimant

John Bernard Czajkowski

Case Number: 21-01431

vs.

Respondent

Securities America, Inc.

Hearing Site: San Diego, California

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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 John Bernard Czajkowski (“Claimant”): Denis Dice, Esq., Winget, Spadafora & Schwartzberg, LLP, Philadelphia, Pennsylvania.

For Respondent Securities America, Inc. (“Respondent”): Gregory Curley, Esq., Securities America, Inc., Jersey City, New Jersey.

**CASE INFORMATION**

Statement of Claim filed on or about: June 3, 2021.

Claimant signed the Submission Agreement: June 2, 2021.

Statement of Non-Opposition filed by Respondent on or about: August 3, 2021.

Respondent did not sign the Submission Agreement.

**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 Non-Opposition, Respondent did not oppose Claimant’s expungement request.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant seeks an affirmative arbitral finding that the claims,

allegations, or information pertaining to the customer complaints disclosed on his CRD records, Occurrence Numbers 1495883 and 1505448, should be expunged since they are no longer disclosable events on his BrokerCheck® Report, they are factually impossible, clearly erroneous or false and because he was not involved in the sales practices at issue.

In the Statement of Non-Opposition, Respondent did not set forth a specific relief request.

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

The Arbitrators acknowledge having read the pleadings and other materials filed by the parties.

Respondent did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure (“Code”) and, having answered the claim, appeared, and testified at the initial pre-hearing conference, is bound by the determination of the Panel on all issues submitted.

On December 21, 2021, Claimant advised that the customers in Occurrence Numbers 1495883 (“Mr. W”) and 1505448 (“Mr. Z”) were served with the Statement of Claim and notice of the date and time of the expungement hearing. On December 30, 2021, Claimant further advised that Mr. Z was also served with the notice of the hearing on another address.

Hereinafter, Mr. W and Mr. Z are collectively referred to as “Customers”.

On January 6, 2022, Mr. W submitted a letter stating his non-opposition to Claimant’s request for expungement.

The Panel conducted a recorded, telephonic hearing on January 20, 2022, 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. As stated in his submission, Mr. W did not oppose the expungement request. The Panel found that the Customers had notice of the expungement request and hearing.

The Panel reviewed Claimant’s BrokerCheck® Report. The Panel noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrences in the CRD.

The Panel also reviewed the settlement documentation related to Occurrence Number 1505448, 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 expungement request and that Claimant did not contribute to the settlement amount.

The Panel noted that the dispute related to Occurrence Number 1495883 was not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimant’s BrokerCheck® Report; Claimant’s testimony and oral argument by his

attorney; Claimant's Statement of Claim; the settlement agreement; proof of service of materials on the Customers; Mr. W's letter; Respondent's Answer to the original arbitration (then settled); and Claimant's exhibits, including applications, offering materials, investment parameters and reconfirmations.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel recommends the expungement of all references to Occurrence Numbers 1495883 and 1505448 from registration records maintained by the CRD for Claimant John Bernard Czajkowski (CRD Number 1360764) with the understanding that, pursuant to Notice to Members 04-16, Claimant John Bernard Czajkowski 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, the Panel has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The claim, allegation, or information is false.

The Panel has made the above Rule 2080 findings based on the following reasons:

The request for expungement was not opposed. Claimant's testimony was thorough, clear and credible, and well-supported by documents, including applications, offering materials, investment parameters and confirmations, as well as substantial and detailed correspondence and arbitration filing. One of the two complaining Customers from ten years before (Mr. W), wrote in to voice no objections to expungement. That customer complaint had been denied outright by Respondent and resulted in no further action. It appeared that the other customer investment turned out to be a Ponzi scheme that had slipped through Respondent's due diligence, had nothing to do with any action by Claimant and could have motivated the apparently high settlement. Unfortunately, Respondent was not available to confirm or elucidate, as Respondent did not participate in the expungement hearing. When asked why expungement had not been sought sooner, Claimant stated that the remedy was not well known in the broker community, nor encouraged by the broker-dealer. Once again, Respondent was not available to comment.

## **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	=\$ 1,600.00
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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	=\$ 2,000.00
Member Process Fee	=\$ 3,850.00

### **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 @ \$1,150.00/session	=\$ 1,150.00
Pre-Hearing Conference: September 27, 2021      1 session	

One (1) hearing session on expungement request @ \$1,150.00/session	=\$ 1,150.00
Hearing: January 20, 2022      1 session	

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Total Hearing Session Fees	=\$ 2,300.00
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The Panel has assessed \$1,150.00 of the hearing session fees to Claimant.

The Panel has assessed \$1,150.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Kirtley M. Thiesmeyer	-	Public Arbitrator, Presiding Chairperson
Randy R. Maher	-	Public Arbitrator
Jo-Ann C. Little	-	Non-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**

***Kirtley M. Thiesmeyer***

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Kirtley M. Thiesmeyer  
Public Arbitrator, Presiding Chairperson

**02/03/2022**

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Signature Date

***Randy R. Maher***

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Randy R. Maher  
Public Arbitrator

**02/04/2022**

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

***Jo-Ann C. Little***

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Jo-Ann C. Little  
Non-Public Arbitrator

**02/04/2022**

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

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February 04, 2022

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