

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Erik John Drewes

Case Number: 20-03224

vs.

Respondents

American Capital Partners, LLC
South Richmond Securities, Inc.
Kensington Wells Incorporated

Hearing Site: New York, New York

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. Members

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Erik John Drewes: Michael Ference, Esq., and Thomas McEvoy, Esq., Sichenzia Ross Ference LLP, New York, New York.

For Respondent American Capital Partners, LLC: John Gardini, American Capital Partners, LLC, Hauppauge, New York.

Respondent South Richmond Securities, Inc. did not enter an appearance in this matter.

Respondent Kensington Wells Incorporated did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: September 11, 2020.

Erik John Drewes signed the Submission Agreement: September 11, 2020.

Statement of Answer filed by Respondent American Capital Partners, LLC on or about: November 6, 2020.

American Capital Partners, LLC signed the Submission Agreement: November 9, 2020.

South Richmond Securities, Inc. did not file a Statement of Answer or sign the Submission Agreement.

Kensington Wells Incorporated did not file a Statement of Answer or 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 Answer, Respondent American Capital Partners, LLC did not contest Claimant's expungement request.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: expungement of Occurrence Numbers 1403998, 103891, and 193718, and compensatory damages in the amount of \$1.00 from Respondent.

In the Statement of Answer, Respondent American Capital Partners, LLC requested that Claimant's request for compensatory damages 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.

Respondents South Richmond Securities, Inc. and Kensington Wells Incorporated did not file Statements of Answers or properly executed Submission Agreements but are required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and are bound by the determination of the Arbitrator on all issues submitted.

On September 29, 2021, Claimant advised that the customers in Occurrence Numbers 1403998, 103891 and 193718 were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded hearing by videoconference on October 21, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondents 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 Number 1403988, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator 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 Arbitrator noted that the disputes related to Occurrence Numbers 103891 and 193718 were not settled and, therefore, there were no settlement documents to review.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's BrokerCheck® Report, the pleadings, Claimant's credible testimony, and the exhibits.

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 Number 1403998 from registration records maintained by the CRD for Claimant Erik John Drewes (CRD Number 2187363) with the understanding that, pursuant to Notice to Members 04-16, Claimant Erik John Drewes 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:

Claimant was not the registered representative for the customer and never made any recommendations nor executed any trades in the account. Claimant was not the registered representative's supervisor. Claimant's only contact with the customer was one phone call when the registered representative was out of the office. The customer was a sophisticated investor with 20 years of trading experience. The customer stated that his objectives were speculation and aggressive growth. The firm settled the case for less than its defense costs and Claimant did not contribute to the settlement. Claimant testified that the actual registered representative did contribute to the settlement.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 103891 from registration records maintained by the CRD for Claimant Erik John Drewes (CRD Number 2187363) with the understanding that, pursuant to Notice to Members 04-16, Claimant Erik John Drewes 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 claims of unsuitability were made in the arbitration proceeding. The claims were denied in the award. The customer was an experienced and sophisticated investor and made his own investment decisions.

3. The Arbitrator recommends the expungement of all references to Occurrence Number 193718 from registration records maintained by the CRD for Claimant Erik John Drewes (CRD Number 2187363) with the understanding that, pursuant to Notice to Members 04-16, Claimant Erik John Drewes 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 claims of unsuitability were made in the arbitration proceeding. The award denied all the claims. The customer was an experienced and sophisticated investor with high risk tolerance and made his own investment decisions. Although Claimant recommended that the customer sell the warrants at issue when they were up, the customer decided to keep them and eventually sustained a loss.

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	= \$ 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 firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as parties, Respondents are each 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 with a single Arbitrator @ \$50.00/session	= \$ 50.00
Pre-Hearing Conference: January 21, 2021 1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing: October 21, 2021 1 session	

Total Hearing Session Fees	= \$ 100.00
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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

Michael H DuBoff

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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

Michael H DuBoff

Michael H DuBoff
Sole Public Arbitrator

10/27/2021

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.

October 28, 2021

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