

**Award**  
**FINRA Office of Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant

Case Number

vs.

Respondents

Hearing Site: Tampa, Florida

Royal Alliance Associates, Inc.  
National Securities Corporation  
Prime Capital Services, Inc.

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Nature of the Dispute: Associated Person vs. Members

**REPRESENTATION OF PARTIES**

For Claimant [REDACTED]: Armin Sarabi, Esq. and Dochter Kennedy, Esq.,  
AdvisorLaw LLC, Broomfield, Colorado.

For Respondent Royal Alliance Associates, Inc. ("Royal Alliance"): Ronald W.  
Sannicandro, Esq., Royal Alliance Associates, Inc., New York, New York.

For Respondent National Securities Corporation ("National Securities"): Janene M.  
Marasciullo, Esq., Wilson Elser Moskowitz Edelman & Dicker LLP, New York, New  
York.

Respondent Prime Capital Services, Inc. ("Prime Capital") did not appear.

**CASE INFORMATION**

Statement of Claim filed on or about: January 10, 2017.  
Claimant signed the Submission Agreement: January 10, 2017.

Statement of Answer filed by Respondent Royal Alliance on or about: March 3, 2017.  
Respondent Royal Alliance signed the Submission Agreement: March 3, 2017.

Statement of Answer filed by Respondent National Securities on or about: March 6,  
2017.  
Respondent National Securities signed the Submission Agreement: March 6, 2017.

Respondent Prime Capital did not submit an Answer or sign the Submission  
Agreement.

Amended Statement of Claim filed by Claimant on or about: March 15, 2017.

### **CASE SUMMARY**

Claimant asserted the cause of action of inaccurate reporting on his Central Registration Depository (“CRD”) records. The causes of action relate to the expungement of Occurrence Numbers [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] on Claimant’s CRD records that originated during his employment with Respondents Royal Alliance, Prime Capital, and National Securities, respectively.

Unless specifically admitted in their respective Statements of Answer, Respondents Royal Alliance and National Securities denied the allegations made in the Statement of Claim, as amended, and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, as amended, Claimant requested: expungement of Occurrence Numbers [REDACTED], [REDACTED], [REDACTED], and [REDACTED] from his CRD record pursuant to FINRA Rule 2080(b)(1)(A) as Claimant alleged that the claim, allegation or information is factually impossible or clearly erroneous; expungement of Occurrence Numbers [REDACTED], [REDACTED], [REDACTED], and [REDACTED] from his CRD record pursuant to FINRA Rule 2080(b)(1)(B) as Claimant alleged that he was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds; expungement of Occurrence Numbers [REDACTED], [REDACTED], [REDACTED], and [REDACTED] from his CRD record pursuant to FINRA Rule 2080(b)(1)(C) as Claimant alleged that the claim, allegation or information is false; compensatory damages in the amount of \$1.00; and any and all other relief that the Arbitrator deemed just and appropriate.

In its Statement of Answer, Respondent Royal Alliance indicated that it did not oppose Claimant’s request for expungement of Occurrence Number [REDACTED].

In its Statement of Answer, Respondent National Securities requested: denial and dismissal of Claimant’s defamation claim; forum fees; attorneys’ fees; and all other relief that the Arbitrator deemed just and proper.

At the close of the hearing, Claimant withdrew his claim for defamation and request for compensatory damages in the amount of \$1.00.

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

The Arbitrator acknowledges that she has read the pleadings and other materials filed by the parties.

Respondent Prime Capital did not file with FINRA Office of Dispute Resolution a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure (“Code”) and is bound by the determination of the Arbitrator on all issues submitted.

On or about March 15, 2017, Claimant filed an Amended Statement of Claim which removed Respondent National Securities as a Respondent in this matter. Accordingly, the Arbitrator made no determinations with respect to Respondent National Securities.

On or about September 13, 2017, Claimant's counsel submitted an affidavit detailing his attempts at serving the Statement of Claim and notice of the expungement hearing on the underlying customers for the Occurrence Numbers for which expungement was sought, in particular by using relevant documentation and information in his possession to search public information available on the LexisNexis database. Claimant's counsel indicated that he located and served the customer from Occurrence Number [REDACTED], but could not locate information relating to the customers from the other Occurrence Numbers. Claimant's counsel also indicated that he requested information from Respondents Royal Alliance and Prime Capital, including last known addresses of the customers, but neither Respondent was able to provide new information to assist with the search. The Arbitrator indicated to FINRA staff that she had reviewed Claimant's counsel's explanation of the steps he took to locate the customers. The Arbitrator found that Claimant took all reasonable steps to locate the customers.

The Arbitrator conducted a recorded telephonic hearing on September 26, 2017, so the parties could present oral argument and evidence on Claimant's request for expungement.

With respect to Occurrence Numbers [REDACTED] and [REDACTED], the Arbitrator did not review settlement agreements because there were no settlements in these instances.

With respect to the expungement of Occurrence Number [REDACTED], Respondent Royal Alliance filed an Affidavit Regarding Settlement Agreements dated September 15, 2017, in which it indicated that (1) it did not have a copy of the settlement agreement reached between the firm and the customer, and (2) Respondent Royal Alliance had no documents or information that indicate the aforementioned settlement was conditioned on the customer's consenting to expungement. The Arbitrator noted that this settlement was between a third-party money manager (not Claimant) and the customer. The Arbitrator further noted that the settlement amount was disclosed in the BrokerCheck report she reviewed, but no other terms of the settlement were available. The Arbitrator considered the amount of payments made to any party. The Arbitrator also noted that Claimant did not contribute to the settlement amount.

The Arbitrator noted that Claimant did not previously file a claim requesting expungement of the same disclosures in the CRD.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the Statement of Claim; Respondents Royal Alliance and National Securities' respective Answers; Claimant's BrokerCheck Report; and Claimant's testimony at the recorded telephonic hearing.

The Arbitrator has provided an explanation of her decision in this award. The explanation is for the information of the parties only and is not precedential in nature.

## AWARD

After considering the pleadings, the testimony and evidence presented at the recorded telephonic hearing, and the post-hearing submissions (if any), 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 [REDACTED], [REDACTED] and [REDACTED] from registration records maintained by the CRD for [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, Claimant 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 Arbitrator has made the following Rule 2080 affirmative findings of fact:

As to Occurrence Number [REDACTED]:

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 finding based on the following reasons:

The claim, allegation or information is false under Rule 2080(b)(1)(C) as Claimant explained the occurrence arose from a clerical error made by the insurance company that issued the annuities. The matter was not "settled." The insurance company allowed rescission of the contracts and made the customer whole.

As to Occurrence Number [REDACTED]:

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 finding based on the following reasons:

The claim, allegation or information is false under Rule 2080(b)(1)(C). Respondent Prime Capital investigated and denied the customer's claim. Claimant testified that he did not have discretionary power over the customer's account. This claim was the fourth regarding the subject bonds. Each was denied, including two filed with regulatory agencies. This was the first claim to allege unauthorized purchase, so the claim was not credible because if it had merit, the customer would have raised it in one of the previously-mentioned three claims.

As to Occurrence Number [REDACTED]:

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

The Arbitrator has made the above Rule 2080 finding based on the following reasons:

Claimant was not involved in the alleged investment-related sales practice violation under Rule 2080(b)(1)(B). Claimant's testimony showed his only involvement was to recommend a third-party money manager approved by Respondent Royal Alliance to the customer. The CRD Form U4 itself acknowledges that the damages were not caused by Claimant.

2. Claimant's requests for expungement of Occurrence Numbers [REDACTED], and [REDACTED] are hereby denied.
3. Any and all relief not specifically addressed herein, including Respondent National Securities' request for attorneys' fees, is hereby denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

FINRA Office of Dispute Resolution 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 firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as parties, Respondents are each assessed the following:

Respondent Prime Capital Member Surcharge	= \$ 150.00
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Respondent National Securities Member Surcharge	= \$ 150.00
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Respondent Royal Alliance 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(s), including a pre-hearing conference with the arbitrator(s) that 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: May 8, 2017		1 session
One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing Date: September 26, 2017		1 session
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Total Hearing Session Fees	= \$	100.00

The Arbitrator has assessed \$75.00 of the hearing session fees to Claimant, which includes the entire hearing session fee for the expungement hearing.

The Arbitrator has assessed \$25.00 of the hearing session fees to Respondents Royal Alliance and Prime Capital, jointly and severally.

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

**ARBITRATOR**

Muriel Desloovere

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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**

/s/ Muriel Desloovere

October 20, 2017

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Muriel Desloovere  
Sole Public Arbitrator

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

October 21, 2017

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Date of Service (For FINRA Office of Dispute Resolution office use only)