

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

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In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Eastbrook Capital Group LLC

Hearing Site: New York, New York

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████: Eric Litow, Esq., Advisor Lawyer, Broomfield, Colorado.

Respondent Eastbrook Capital Group LLC did not appear.

**CASE INFORMATION**

Statement of Claim filed on or about: May 1, 2017.

Claimant signed the Submission Agreement: May 1, 2017.

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

**CASE SUMMARY**

Claimant asserted the following cause of action: expungement.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested compensatory damages in the amount of \$1.00 and expungement of his CRD records.

**OTHER ISSUES CONSIDERED AND DECIDED**

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

Respondent 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.

By letters dated October 10, 2017, Claimant provided the Office of Dispute Resolution with proof that he served the customers in the underlying complaints with notice of his expungement request and notice of the customers’ right to participate and testify at the expungement hearing.

The customers and Respondent did not participate in the expungement hearing and did not contest the request for expungement.

The Arbitrator conducted a recorded telephonic expungement hearing on November 28, 2017 so the parties could present oral argument and evidence on Claimant’s request for expungement of his CRD records. The customers did not contest the request for expungement.

The Arbitrator reviewed the pleadings, BrokerCheck® Report for Claimant, and Claimant’s testimony.

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

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the expungement hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants request for compensatory damages is denied.
2. The Arbitrator recommends the expungement of all references to occurrence # [REDACTED] from registration records maintained by the Central Registration Depository (“CRD”), for Claimant [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, Claimant [REDACTED] 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 Arbitrator has made the following Rule 2080 affirmative finding of fact:

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

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

A letter of complaint was sent to Respondent on August 10, 2006 alleging Claimant failed place a stop-loss order on an investment made by the customer. Before filing the letter of complaint, the customer called Claimant to complain that he had put a stop-loss on the order and it had not been executed. The customer later realized that he had never put a stop-loss on the order.

Claimant was surprised when the customer filed the complaint. After Respondent's thorough investigation, it closed the complaint. The customer could not recall when he had asked Claimant to put a stop-loss on the order and he retracted his complaint.

3. The Arbitrator recommends the expungement of all references to occurrence # [REDACTED] from registration records maintained by the Central Registration Depository ("CRD"), for Claimant [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, Claimant [REDACTED] 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 Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and the claim, allegation, or information is false.

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

A letter of complaint was sent to Respondent on June 8, 2006 alleging Claimant failed to follow instructions regarding a purchase made by the customer who had purchased 2,000 shares of Titanium Metals, a stock on the New York Stock Exchange. The complaint alleged that the customer had placed a sell order on Titanium Metals at the time when she placed the order to purchase the stock. The complaint was made to the Respondent after Titanium's stock priced declined.

Claimant credibly testified that the customer did not make such a request when she purchased the stock, that Respondent's compliance department confirmed the trade, and that no reference to a sell order was on the confirmation.

Respondent did a thorough investigation and denied the customer's claim.

## **FEES**

Pursuant to the Code of Arbitration Procedure, 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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Eastbrook Capital Group is 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, 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: September 25, 2017      1 session	

One (1) hearing session on expungement request @ \$50.00/session	=\$ 50.00
Hearing Date: November 28, 2017      1 session	

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Total Hearing Session Fees	=\$100.00
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The Arbitrator has assessed \$100.00 of the hearing session fees to Claimant.

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

**ARBITRATOR**

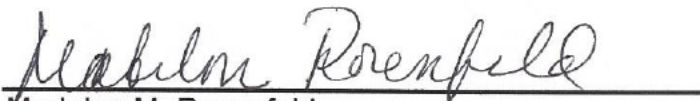
Madelon M. Rosenfeld

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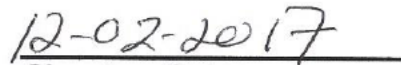
Sole Public Arbitrator

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**



Madelon M. Rosenfeld  
Sole Public Arbitrator



Signature Date

**December 5, 2017**

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