

**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 [REDACTED] Michael Bessette, Esq., HLBS Law,  
Westminster, Colorado.

Respondent Eastbrook Capital Group LLC did not enter an appearance in this matter.

**CASE INFORMATION**

Statement of Claim filed on or about: February 15, 2018.

Claimant signed the Submission Agreement: February 15, 2018.

Respondent Eastbrook Capital Group LLC did not sign the Submission Agreement or file a Statement of Answer.

**CASE SUMMARY**

Claimant asserted the following cause of action: expungement.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of the Occurrences from his CRD record pursuant to FINRA Rule 2080(b)(1)(A), as the claim, allegation, or information is factually impossible or clearly erroneous.
2. Expungement of the Occurrences from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false.

3. An award of compensatory damages in the amount of \$1.00 from the Respondent.
4. Any and all other relief that the Arbitrator deems just and equitable.

At the close of the hearing, Claimant withdrew his demand for compensatory damages in the amount of \$1.00.

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

The Arbitrator acknowledges that he 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 or a Statement of Answer 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.

The Arbitrator conducted a recorded telephonic hearings on December 3, 2018, December 4, 2018, December 5, 2018, and December 6, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

Claimant provided FINRA Office of Dispute Resolution with proof that he notified the customers in the underlying complaints for Occurrence Numbers [REDACTED] and [REDACTED] of the expungement request and of their right to participate and testify at the expungement hearing and included a copy of the Statement of Claim with the notice.

The customers in the underlying complaints for Occurrence Numbers [REDACTED] and [REDACTED] did not participate in the expungement hearing and did not contest the request for expungement.

Claimant informed FINRA Office of Dispute Resolution that the customers in the underlying complaints for Occurrence Numbers [REDACTED] and [REDACTED] are deceased and therefore could not be notified of Claimant's expungement request.

The Arbitrator reviewed Claimant's BrokerCheck® Report and noted that Claimant did not previously file claims requesting expungement of the same disclosures in the CRD.

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

## AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, 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 [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 registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and the claim, allegation, or information is false.

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

The customer failed to cover a margin call in a timely manner. The clearing agent sold securities in the account to cover the margin call and Claimant played no role in the sale.

2. The Arbitrator recommends the expungement of all references to Occurrence Number [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:

The customers opened an account placing one initial transaction – an order to buy one stock. It was a firm practice for the management at the Respondent firm to approve and process all initial transactions in new accounts. The customers reneged upon this purchase and did not pay. No money changed hands, the customers requested a cancellation and it was granted.

3. Claimant's request for expungement of Occurrence Numbers [REDACTED] and [REDACTED] from his CRD records is denied.
4. Any and all claims for relief not specifically addressed herein is denied.

### 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 event giving rise to the dispute. Accordingly, as a party, Respondent Eastbrook Capital Group LLC 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: June 6, 2018	1 session

Four (4) hearing sessions on expungement request @ \$50.00/session	=\$200.00
Hearing Date: December 3, 2018	1 session
December 4, 2018	1 session
December 5, 2018	1 session
December 6, 2018	1 session

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Total Hearing Session Fees	=\$250.00
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The Arbitrator assessed the \$250.00 hearing session fees to the Claimant.

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

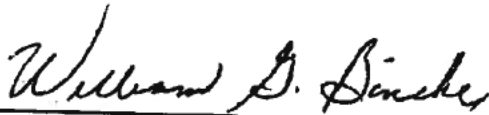
**ARBITRATOR**

William G. Binckes

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**



William G. Binckes  
Sole Public Arbitrator

1/9/19

Signature Date

**January 11, 2019**

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