

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

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In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Merrill Lynch Pierce Fenner & Smith Inc.

Hearing Site: Miami, Florida

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████ (“Claimant”): Doctor Kennedy, Esq. and Eric Litow, Esq., AdvisorLaw LLC, Westminster, Colorado.

For Respondent Merrill Lynch Pierce Fenner & Smith Inc. (“Respondent”): Janell M. Ahnert, Esq., Bressler, Amery, & Ross, P.C., Birmingham, Alabama.

**CASE INFORMATION**

Statement of Claim filed on or about: August 10, 2018.  
Claimant signed the Submission Agreement: August 10, 2018.

Statement of Answer filed by Respondent on or about: October 4, 2018.  
Respondent signed the Submission Agreement: October 3, 2018.

**CASE SUMMARY**

Claimant asserted defamation as the cause of action. The cause of action related to Claimant’s allegation that Respondent defamed him in the Form U5 it filed as part of Claimant’s registration records maintained by the Central Registration Depository (the “CRD”) after Claimant’s employment with Respondent concluded.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of all references to the defamatory statements in Claimant’s registration records maintained by the CRD, \$1.00 in compensatory damages, and any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that Claimant's request for expungement of his Form U5 and any related defamation claims be dismissed in their entirety.

At the hearing, Claimant withdrew his request for \$1.00 in compensatory damages.

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

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

### **AWARD**

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

1. Claimant's request for expungement of his CRD records is denied.
2. Any and all claims for relief not specifically addressed herein are 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 events giving rise to the dispute. Accordingly, as a party, Respondent 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(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: November 30, 2018 1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
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Hearing Date: January 16, 2019 1 session

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Total Hearing Session Fees =\$ 100.00

The Arbitrator has assessed \$100.00 of the hearing session fees to Respondent.

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

**ARBITRATOR**

Nancy J. Cliff

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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**



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Nancy J. Cliff  
Sole Public Arbitrator

1.31.19

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Signature Date

January 31, 2019

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