

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
[REDACTED]

Case Number: [REDACTED]

vs.

Respondent
Merrill Lynch, Pierce, Fenner & Smith Inc.

Hearing Site: Washington, D.C.

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant [REDACTED]: Docthor Kennedy, MBA, JD, and Christopher Cummins, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Merrill Lynch, Pierce, Fenner & Smith Inc.: Sarah K. Yates, Esq., Bressler, Amery & Ross, P.C., Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: February 28, 2018.
Claimant signed the Submission Agreement: February 28, 2018.

Statement of Answer filed by Respondents on or about: April 20, 2018.
Respondent signed the Submission Agreement: April 30, 2018.

CASE SUMMARY

Claimant asserted the following cause of action: expungement.

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 compensatory damages in the amount of \$1.00 and expungement of occurrence numbers [REDACTED] [REDACTED] and [REDACTED]

In the Statement of Answer, Respondent took no position on Claimant's expungement request and requested any request for damages be denied.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Arbitrator conducted a recorded telephonic hearing on November 5, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

Claimant provided proof of service of the Statement of Claim on the underlying customers and notice of the expungement hearing.

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

The Arbitrator reviewed Claimant's BrokerCheck® Report and the settlement documents for occurrence numbers [REDACTED] and [REDACTED], considered the amount of payments made to underlying customers, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlements were not conditioned on the underlying customers not opposing the request for expungement. The Arbitrator also noted that Claimant did not contribute to the settlement amounts. Claimant and Respondent were unable to provide the settlement agreement for occurrence number [REDACTED]

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

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, 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 event giving rise to the dispute. Accordingly, as a party, Merrill Lynch, Pierce, Fenner & Smith, Inc. 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 20, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	=\$ 50.00
Hearing Date: November 5, 2018	1 session

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

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

ARBITRATOR

Marni E. Byrum

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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



Marni E. Byrum
Sole Public Arbitrator

3-6-19

Signature Date

March 6, 2019

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