

**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: Atlanta, Georgia

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██ (“Claimant”): Erica Harris, Esq. and Docthor Kennedy MBA, J.D., AdvisorLaw LLC, Westminster, Colorado.

For Respondent Merrill Lynch Pierce Fenner & Smith Inc. (“Respondent”): Sarah K. Yates, Esq., Bressler Amery Ross, Birmingham, Alabama.

**CASE INFORMATION**

Statement of Claim filed on or about: November 29, 2018.  
Claimant signed the Submission Agreement: November 29, 2018.

Statement of Answer filed by Respondent on or about: January 22, 2019.  
Respondent signed the Submission Agreement: January 22, 2019.

**CASE SUMMARY**

Claimant asserted a claim seeking expungement of a FINRA Arbitration case (“Underlying Arbitration”), occurrence number ████████████████████ from her Central Registration Depository (“CRD”) records.

In the Statement of Answer, Respondent advised that it takes no position on Claimant’s request for expungement, objected to Claimant’s request for \$1.00 in compensatory damages, and asserted various affirmative defenses.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Arbitration from her CRD records, pursuant to a

- finding that the claim, allegation, or information is factually impossible and clearly erroneous pursuant to FINRA Rule 2080(b)(1)(A);
2. Expungement of the Underlying Arbitration from her CRD records, pursuant to a finding that Claimant was not involved in the alleged investment-related sales practice violation pursuant to FINRA Rule 2080(b)(1)(B);
  3. Expungement of the Underlying Arbitration from her CRD records, pursuant to a finding that the claim, allegation, or information is false, pursuant to FINRA Rule 2080(b)(1)(C);
  4. Compensatory damages in the amount of \$1.00 from Respondent; and
  5. Any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent did not set forth a specific relief request.

At the close of the hearing, Claimant requested that her request for \$1.00 in compensatory damages be stricken from the Statement of Claim.

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

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

The Arbitrator conducted a recorded telephonic hearing on May 15, 2019 so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the expungement hearing and did not contest the request for expungement.

The parties present at the hearing have agreed that a handwritten, signed Award may be entered.

### **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. Claimant's request for expungement of the Underlying Arbitration, occurrence number [REDACTED] from her 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

*\*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 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: March 19, 2019	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$50.00
Hearing Date: May 15, 2019	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**

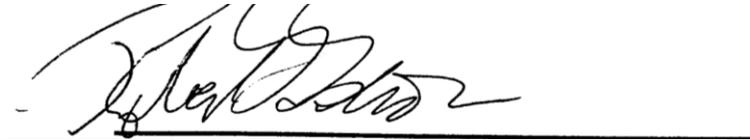
Robert L. Lestina, Jr.

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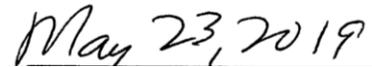
Sole Public Arbitrator

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**



Robert L. Lestina, Jr.  
Sole Public Arbitrator



Signature Date

May 24, 2019

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