

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

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In the Matter of the Arbitration Between:

Claimant

██████████

Case Number: ██████████

vs.

Respondent

LPL Financial LLC

Hearing Site: Houston, Texas

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

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

For Respondent LPL Financial LLC (“Respondent”): Brian P. Harlan, Esq., LPL Financial LLC, San Diego, California.

**CASE INFORMATION**

Statement of Claim filed on or about: August 9, 2018.

Claimant signed the Submission Agreement: August 9, 2018.

Statement of Answer filed by Respondent on or about: October 26, 2018.

Respondent signed the Submission Agreement: October 30, 2018.

**CASE SUMMARY**

In the Statement of Claim, 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 (“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 or modification of various portions of the Forum U5 filed by Respondent from his registration records maintained by the CRD, compensatory damages in the amount of \$1.00, and any other relief that

the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that the Arbitrator issue an award dismissing any and all allegations of wrongdoing against Respondent; deny any and all requests for damages, costs, and fees; award arbitration costs and expenses to Respondent; and award such other relief as the Arbitrator may deem appropriate.

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

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

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

### **AWARD**

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

1. The Arbitrator recommends expungement of the Reason for Termination and the Termination Explanation in Section 3 of [REDACTED] (CRD # [REDACTED] Form U5 filed by LPL Financial LLC on October 3, 2012, and maintained by the CRD. The Reason for Termination shall be changed to "voluntary" and the Termination Explanation shall be left blank.

In addition, the Arbitrator recommends the expungement of the "Yes" answer to Question 7(F)(1) of the foregoing Form U5. The "Yes" answer shall be changed to "No" and the accompanying Termination Disclosure Reporting Page shall be deleted in its entirety.

The Arbitrator further recommends expungement of the "Yes" answer to Question 14(J)(1) on [REDACTED] Form U4 filed by SFS Advisors, LLC on October 31, 2012.

These recommendations apply to any subsequent disclosures concerning this event.

The above expungement recommendations are based on the defamatory nature of the information.

The registration records are not automatically amended to include the changes indicated above. Claimant [REDACTED] must forward a copy of this Award to FINRA's Registration and Disclosure Department for review.

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: December 7, 2018                      1 session	

One (1) hearing session on expungement request @ \$50.00/session	=\$ 50.00
Hearing Date: January 29, 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.

