

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

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In the Matter of the Arbitration Between:

Claimant

██████████

Case Number ██████████

vs.

Respondent

GunnAllen Financial, Inc.

Hearing Site: Salt Lake City, Utah

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

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

Respondent GunnAllen Financial, Inc. (“Respondent”) did not appear.

**CASE INFORMATION**

Statement of Claim filed on or about: April 27, 2018.

Claimant signed the Submission Agreement: April 27, 2018.

Respondent did not file a Statement of Answer or a properly signed submission agreement.

**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 reported by Respondent as part of his registration records maintained by the Central Registration Depository (“CRD”).

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of all references to the defamatory language in his Form U5 and those relevant portions of his Form U4 maintained by the CRD. Claimant further requested \$1.00 in compensatory damages.

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.

Respondent did not file with FINRA Office of Dispute Resolution a properly executed Submission Agreement 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 hearing on November 29, 2018, so the parties could present oral argument and evidence on Claimant’s request for expungement. Respondent did not participate in the expungement hearing. Upon review of the file and the representations made by Claimant, the Arbitrator determined that Respondent has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the Code.

### **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:

The Arbitrator recommends expungement of the Reason for Termination and the Termination Explanation in Section 3 of [REDACTED] (CRD # [REDACTED]) Form U5 filed by Respondent on April 1, 2008, and maintained by the CRD. The Reason for Termination shall be changed to “Voluntary” and the Termination Explanation shall be left blank.

The Arbitrator further recommends expungement of the “Yes” answer to Questions 7(F)(1) of [REDACTED] Form U5 filed by Respondent on April 1, 2008, and maintained by the CRD. 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) of [REDACTED] Amended Form U4 filed by H. Beck, Inc. on November 21, 2012, and maintained by the CRD. The “Yes” answer shall be changed to “No” and the accompanying Termination Disclosure Reporting Page shall be deleted in its entirety.

The Arbitrator recommends expungements based on the defamatory nature of the information. The Arbitrator also finds the information to be false and misleading. In order for Claimant to move his clients from his former firm (the “Firm”), which was failing, to Respondent, the Firm’s president had to sign block transfer forms. The Firm’s president signed the forms in his capacity as the president or, alternatively, as a principal. Respondent stated in the Form U5 that the Firm’s president was not FINRA registered but was held out as such by Claimant, as he was informed by

Respondent. This was patently false. Respondent breached its agreement with Claimant and, as Respondent's business was failing, attempted to take over Claimant's clients. No similar complaints were leveled against Claimant's partner. Since Claimant was vocal about enforcing the agreement, Respondent took retribution on Claimant. Neither Claimant nor his partner ever represented a non-registered person as being registered.

These recommendations shall apply to any subsequent disclosures concerning this event. 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.

### **FEES**

Pursuant to the Code, 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: August 29, 2018 1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: November 29, 2018 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**

Daniel M. Yamshon

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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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Daniel M. Yamshon  
Sole Public Arbitrator

January 14, 2019  

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Signature Date

January 14, 2019

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