

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Alexander S. Garrett

Case Number: 19-01254

vs.

Respondent  
Merrill Lynch Pierce Fenner & Smith Inc.

Hearing Site: Atlanta, Georgia

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Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Associated Person vs. Member

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Alexander S. Garrett: Joseph B. Alonso, Esq. and Maggie K. Garrett, Esq., Gregory, Doyle, Calhoun & Rogers, LLC, Marietta, Georgia.

For Respondent Merrill Lynch Pierce Fenner & Smith Inc.: Elizabeth E. Moum, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: May 6, 2019.

Claimant signed the Submission Agreement: May 6, 2019.

Statement of Answer filed by Respondent on or about: June 26, 2019.

Respondent signed the Submission Agreement: June 26, 2019.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted a cause of action for wrongful termination and a claim alleging that the Form U5 filed by Respondent, as part of the registration records maintained by the Central Registration Depository (“CRD”), is defamatory in nature.

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:

1. Compensatory damages in the amount to be determined, derived from the loss of income, the loss of his book of business, and for mental pain and anguish;
2. Punitive damages in an amount to be determined by the Panel;
3. Pre-award interest;
4. Forum fees and costs, including expert witness fees;
5. An amendment and/or expungement of Claimant's Form U5; and
6. Such other and further relief as may be appropriate.

In the Statement of Answer, Respondent requested:

1. Dismissal of the claim with prejudice in its entirety;
2. Assessment of all forum and other costs against Claimant; and
3. Such other and further relief as the Panel deems appropriate.

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

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

On November 15, 2021, Claimant filed a notice of partial settlement regarding the damages portion of the claim. Therefore, the Panel made no determination with respect to any of the relief requests regarding damages contained in the Statement of Claim.

On November 18, 2021, the Parties stipulated the expungement hearing to be heard and decided by the Chairperson.

### **AWARD**

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

Claimant's request for expungement of his Form U5 is denied.

### **FEES**

Pursuant to the Code of Arbitration Procedure ("Code"), the following fees are assessed:

#### **Filing Fees**

FINRA Dispute Resolution Services assessed a filing fee\* for each claim:

Initial Claim Filing Fee	= \$ 1,575.00
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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(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	= \$	1,900.00
Member Process Fee	= \$	3,750.00

### **Postponement Fees**

Postponements granted during these proceedings for which fees were assessed or waived:

October 14-16 and 19-22, 2020, postponement requested by Parties	=	Waived
June 13-17 and 20-21, 2022, postponement requested by Parties	= \$	1,125.00
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Total Postponement Fees	= \$	1,125.00

The Arbitrator has assessed \$562.50 of the postponement fees to Claimant.

The Arbitrator has assessed \$562.50 of the postponement fees to Respondents.

### **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, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: February 16, 2021	1 session	
Three (3) pre-hearing session with the Panel @ \$1,125.00/session	= \$	3,375.00
Hearings: August 27, 2019	1 session	
July 14, 2020	1 session	
April 5, 2021	1 session	
Three (3) hearing sessions @ \$450.00/session	= \$	1,350.00
Hearings: December 8, 2021	1 session	
March 7, 2022	2 sessions	
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Total Hearing Session Fees	= \$	5,175.00

The Arbitrator has assessed \$2,587.50 of the hearing session fees to Claimant.

The Arbitrator has assessed \$2,587.50 of the hearing session fees to Respondent.

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

**ARBITRATOR**

Harvey R. Linder

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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**

***Harvey R. Linder***

Harvey R. Linder  
Sole Public Arbitrator

**03/15/2022**

Signature Date

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March 16, 2022

Date of Service (For FINRA Dispute Resolution Services use only)