

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

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In the Matter of the Arbitration Between:

Claimant

Frank B. Hannah Sr.

Case Number: 19-03404

vs.

Respondents

Merrill Lynch, Pierce, Fenner & Smith Incorporated  
and Michael Patrick Truitt

Hearing Site: Baltimore, Maryland

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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: Customer vs. Member and Associated Person

This case was decided by a majority-public panel.

**REPRESENTATION OF PARTIES**

For Claimant Frank B. Hannah Sr. (“Claimant”): Luke Rommel, Esq., Rommel & Associates, LLC, Salisbury, Maryland.\*

For Respondents Merrill Lynch, Pierce, Fenner & Smith Incorporated (“Merrill Lynch”) and Michael Patrick Truitt (“Truitt”), collectively, “Respondents”: Tara A. LaClair, Esq., Jennifer Lamirand, Esq., and Aimee Majoue, Esq., Crowe & Dunlevy, Oklahoma City, Oklahoma.

\*FINRA recorded the appearance of Claimant’s counsel at the time of filing of the Statement of Claim. Counsel’s representation of Claimant may have ended with the parties’ settlement. Please see the Other Issues Considered and Decided section of this Award for information on whether Claimant’s counsel appeared at the expungement hearing.

**CASE INFORMATION**

Statement of Claim filed on or about: November 15, 2019.  
Claimant signed the Submission Agreement: November 13, 2019.

Statement of Answer filed on or about: February 10, 2020.  
Merrill Lynch signed the Submission Agreement: February 11, 2020.  
Truitt signed the Submission Agreement: December 19, 2019.

### **CASE SUMMARY**

In the Statement of Claim, Claimant alleged that Truitt, a Branch Manager for Merrill Lynch, made misrepresentations to Claimant regarding Solid Waste Disposal Facilities Revenue Bonds.

Unless specifically admitted in the Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested \$475,000.00 in compensatory damages.

In the Statement of Answer, Merrill Lynch requested that the Panel deny the Claimant's claim in its entirety, award its costs and attorneys' fees, and expunge all references to this matter from Central Registration Depository ("CRD") registration records for Truitt.

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

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On December 22, 2021, Claimant filed a Stipulation of Dismissal with Prejudice. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On January 7, 2022, Respondents filed a Motion for Expungement for Truitt, to which no response was filed.

The Panel conducted a recorded, telephonic hearing on March 17, 2022, so the parties could present oral argument and evidence on Respondents' request for expungement.

Neither Claimant nor Claimant's counsel participated in the expungement hearing.

The Panel reviewed Truitt's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

The Panel also reviewed the settlement documentation, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel noted that the settlement was not conditioned on any party to the settlement not opposing the request for expungement and that Truitt did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Merrill Lynch correspondence dated March 8, 2019 and May 14, 2019.

The Award in this matter may be executed in counterpart copies.

## **AWARD**

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

1. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2015028) from registration records maintained by the CRD for Respondent Michael Patrick Truitt (CRD Number 1201845) with the understanding that, pursuant to Notice to Members 04-16, Respondent Michael Patrick Truitt must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code of Arbitration Procedure (“Code”), the Panel has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and

The claim, allegation, or information is false.

The Panel has made the above Rule 2080 findings based on the following reasons:

During the expungement hearing, the Panel heard direct testimony that clearly refuted the allegations contained in the underlying customer's Statement of Claim. Documents offered and entered into the record included correspondence between counsel for the underlying customer and Merrill Lynch’s compliance officer which indicated the clearly erroneous nature of the underlying claim.

2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys’ fees, are denied.

## **FEES**

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

### **Filing Fees**

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

Initial Claim Filing Fee	=\$ 1,425.00
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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, Merrill Lynch is assessed the following:

Member Surcharge	= \$	1,900.00
Member Process Fee	= \$	3,750.00

**Late Pre-Hearing Cancellation Fees**

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

October 12, 2020, cancellation requested by the parties	= \$	100.00
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Total Late Pre-Hearing Cancellation Fees	= \$	100.00

The Panel has assessed \$50.00 of the late pre-hearing cancellation fees to Claimant.

The Panel has assessed \$50.00 of the late pre-hearing cancellation fees to Merrill Lynch.

**Hearing Session Fees and Assessments**

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

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	2,250.00
Pre-Hearing Conferences: March 20, 2020	1 session	
December 1, 2020	1 session	
One (1) hearing session on expungement request @ \$1,125.00/session	= \$	1,125.00
Hearing: March 17, 2022	1 session	
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Total Hearing Session Fees	= \$	3,375.00

The Panel has assessed \$1,125.00 of the hearing session fees to Claimant.

The Panel has assessed \$1,125.00 of the hearing session fees to Merrill Lynch.

The Panel has assessed \$1,125.00 of the hearing session fees to Truitt.

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

**ARBITRATION PANEL**

Richard E. Lauziere	-	Public Arbitrator, Presiding Chairperson
Tina E. Patterson	-	Public Arbitrator
Daniel J. Donovan	-	Non-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.

**Concurring Arbitrators' Signatures**

***Richard E. Lauziere***

Richard E. Lauziere  
Public Arbitrator, Presiding Chairperson

**03/18/2022**

Signature Date

***Tina E. Patterson***

Tina E. Patterson  
Public Arbitrator

**03/21/2022**

Signature Date

***Daniel J. Donovan***

Daniel J. Donovan  
Non-Public Arbitrator

**03/18/2022**

Signature Date

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March 21, 2022

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