

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

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In the Matter of the Arbitration Between:

Claimant  
D. Allen Blankenship

Case Number: 19-03817

vs.

Respondent  
Independent Financial Group, LLC.

Hearing Site: San Diego, California

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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

**REPRESENTATION OF PARTIES**

For Claimant D. Allen Blankenship (“Claimant”): Frances Menzer, Esq., HLBS Law, Westminster, Colorado.

For Respondent Independent Financial Group, LLC. (“Respondent”): Robert L. Gonser, Esq., Gonser Law PC, Lafayette, California.

**CASE INFORMATION**

Statement of Claim filed on or about: December 26, 2019.  
Claimant signed the Submission Agreement: December 26, 2019.

Statement of Answer filed by Respondent on or about: March 3, 2020.  
Respondent signed the Submission Agreement: February 11, 2020.

**CASE SUMMARY**

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

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. Expungement of Claimant's Form U5 amendments, and those relevant portions of the Form U4, from Claimant's CRD records on the basis that the statement is defamatory in nature, misleading, inaccurate, and/or erroneous, to include:
  - a. amendment of the Reason for Termination entry in Section 3 of Claimant's Form U5 to read "Voluntary";
  - b. expungement of the Reason for Termination explanation on Claimant's CRD;
  - c. expungement of the "Yes" answer to Question 7F(1) on Claimant's Form U5, amending that "Yes" response to "No"; and
  - d. deletion of any of the accompanying Internal Review and Termination Disclosure Reporting Pages in their entirety;
2. Damages for defamation in an amount to be determined at hearing;
3. Attorney's fees and costs; and
4. Any other relief as the Panel deems just and equitable.

In the Statement of Answer, Respondent requested:

1. The Panel deny and dismiss all claims asserted by Claimant;
2. Attorney's fees, forum fees, and costs incurred in the defense of this action; and
3. Any other relief in favor of Respondent, and against Claimant, that the Panel deems just and proper.

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

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

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 the Termination Explanation in Section 3 of D Allen Blankenship's (CRD Number 2842335) Form U5 filed by Independent Financial Group, LLC (CRD Number 7717) on October 22, 2019 and maintained by the CRD. The Termination Explanation shall be replaced with the following language:

*Representative terminated for violation of firm's policy with regard to submission of required documents for certain mutual fund transactions and failure to ensure clients were receiving benefit of mutual fund breakpoints.*

The Reason for Termination shall remain the same. This directive shall apply to all references to the Termination Explanation and Reason for Termination.

The Panel further recommends the expungement of the response to Question 4 on the Termination Disclosure Reporting Page concerning Occurrence Number 2050056 on D Allen Blankenship's (CRD Number 2842335) registration records maintained by the CRD.

The response to Question 4 shall be deleted in its entirety and shall be replaced with the following language:

*Representative terminated for violation of firm's policy with regard to submission of required documents for certain mutual fund transactions and failure to ensure clients were receiving benefit of mutual fund breakpoints.*

The Panel recommends expungement based on the defamatory nature of the information. The above recommendations are made with the understanding that the registration records are not automatically amended. D Allen Blankenship must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure Department for review.

2. Claimant's request for expungement of Occurrence Number 2050055 from his CRD records is denied.
3. Any and all claims for relief not specifically addressed herein, including any requests for attorneys' fees, are 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 13-16, 2020, postponement requested by Parties	= \$	Waived
August 16-20, 2021, postponement requested by Respondent	= \$	1,125.00

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Total Postponement Fees	= \$	1,125.00
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The Panel has assessed the total postponement fees to Respondent.

**Last-Minute Cancellation Fees**

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

August 16-20, 2021, cancellation requested Respondent	= \$	1,800.00
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Total Last-Minute Cancellation Fees	= \$	1,800.00

The Panel has assessed the total last-minute cancellation fees to Respondent.

**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:

Three (3) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	3,375.00
Pre-Hearing Conferences:		
April 13, 2020	1 session	
December 28, 2020	1 session	
August 11, 2021	1 session	
Four (4) hearing sessions @ \$1,125.00/session	= \$	4,500.00
Hearings:		
November 16, 2021	2 session	
November 17, 2021	2 session	
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Total Hearing Session Fees	= \$	7,875.00

The Panel has assessed \$3,375.00 of the hearing session fees to Claimant.

The Panel has assessed \$4,500.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Thomas L. Marshall	-	Public Arbitrator, Presiding Chairperson
Randy R. Maher	-	Public Arbitrator
David Sear	-	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**

***Thomas L. Marshall***

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Thomas L. Marshall  
Public Arbitrator, Presiding Chairperson

**12/06/2021**

\_\_\_\_\_  
Signature Date

***Randy R. Maher***

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Randy R. Maher  
Public Arbitrator

**12/01/2021**

\_\_\_\_\_  
Signature Date

***David Sear***

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David Sear  
Non-Public Arbitrator

**12/01/2021**

\_\_\_\_\_  
Signature Date

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December 06, 2021

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