

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

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In the Matter of the Arbitration Between:

Claimant  
Mark M. Black

Case Number: 20-00013

vs.

Respondent  
Cambridge Investment Research, Inc.

Hearing Site: Cincinnati, Ohio

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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 Mark M. Black (“Claimant”): Victor Bayata, Esq., Vernon Litigation Group, Naples, Florida.

For Respondent Cambridge Investment Research, Inc. (“Respondent”): Richard H. Kuhlman, Esq. and Jeanette Dennis, Esq., Cambridge Investment Research, Inc., Fairfield, Iowa.

**CASE INFORMATION**

Statement of Claim filed on or about: January 30, 2020.  
Claimant signed the Submission Agreement: January 24, 2020.

Statement of Answer filed on or about: March 30, 2020.  
Respondent signed the Submission Agreement: March 30, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted causes of action, including defamation; breach of contract; unjust enrichment; tortious interference; false reporting; fraudulent, reckless, and negligent misrepresentation; and negligence under common law and statutory law. The causes of action related to Claimant’s allegations that he was defamed by the Form U5 filed by Respondent and Respondent failed to pay commissions owed to him at the time of his resignation.

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 compensatory damages, along with his costs, attorneys' fees, and a significant award of punitive damages; a finding that Respondent's actions were defamatory; and expungement of the Form U5 filed by Respondent and Occurrence Number 1923472 from Claimant's registration records maintained by the Central Registration Depository ("CRD").

In the Statement of Answer, Respondent requested that Claimant's claims be dismissed with prejudice, an award of fees and costs, and such other relief as the Panel deems appropriate.

At the hearing, Respondent requested that all fees associated with expungement be assessed to Claimant, and Claimant did not object.

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

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

On December 18, 2020, Respondent filed a Motion to Compel. On January 11, 2021, Claimant filed a Response to the Motion to Compel. On January 15, 2021, Respondent filed a Reply to the Response to the Motion to Compel, requesting that the Panel dismiss Claimant's Statement of Claim as a sanction for failure to participate in discovery. In an Order dated February 18, 2021, the Chairperson directed Claimant to provide the responsive documents or be precluded from presenting any documentary evidence at the hearing that had not been provided during discovery. Further, the Chairperson took the sanction request under advisement.

On March 5, 2021, Respondent filed a Renewed Motion to Compel, requesting dismissal of the Statement of Claim for failure to comply with a discovery order and failure to produce any evidence to support the claims. On March 15, 2021, Claimant filed a Response to the Renewed Motion to Compel. On March 22, 2021, Respondent filed a Reply to the Response to the Renewed Motion to Compel. In an Order dated March 27, 2021, the Panel denied the Renewed Motion to Compel.

The Arbitrator conducted a recorded hearing by videoconference on June 8, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent participated in the hearing and did not oppose the request for expungement.

On the record at the hearing, the parties provided notice that only the claim for expungement remained to be determined by the Panel. On June 29, 2021, Claimant filed notice of the parties' settlement and confirmed that the only remaining issue was expungement. Therefore, the Panel made no determination on any other claims except for expungement.

### **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 the Form U5 filed by Respondent and Occurrence Number 1923472 from Claimant's registration records maintained by the CRD is 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	= \$	1,575.00
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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

#### **Discovery-Related Motion Fee**

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with three (3) Arbitrators @ \$200.00/decision	= \$	600.00
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Respondent submitted one (1) discovery-related motion

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Total Discovery-Related Motion Fees	= \$	600.00
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The Arbitrator has assessed the total discovery-related motion fees to Respondent.

#### **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 18, 2021	1 session	

One (1) pre-hearing session with a panel @ \$1,125.00/session	= \$	1,125.00
Pre-Hearing Conference: January 13, 2021	1 session	

One (1) hearing session @ \$1,125.00/session	= \$	1,125.00
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Hearing:	June 8, 2021	1 session	
Total Hearing Session Fees			= \$ 2,700.00

The Arbitrator has assessed \$2,137.50 hearing session fees to Claimant.

The Arbitrator has assessed \$562.50 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Sharon R. Merriman	-	Public Arbitrator, Presiding Chairperson
David Winchester Peck	-	Public Arbitrator
Pamela K. Ginsburg	-	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**

***Sharon R. Merriman***

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Sharon R. Merriman  
Public Arbitrator, Presiding Chairperson

**07/01/2021**

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

***David Winchester Peck***

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David Winchester Peck  
Public Arbitrator

**07/02/2021**

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

***Pamela K. Ginsburg***

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Pamela K. Ginsburg  
Non-Public Arbitrator

**07/02/2021**

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

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July 02, 2021

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