

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Ian Michael Rodgers

Case Number: 20-03552

vs.

Respondent

Merrill Lynch, Pierce, Fenner & Smith Inc.

Hearing Site: Phoenix, Arizona

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 Ian Michael Rodgers (“Claimant”): Dochter Kennedy, MBA, J.D., Benjamin Winograd, Esq., and Jake Jacobsen, Esq., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Merrill Lynch, Pierce, Fenner & Smith Inc. (“Respondent”): Kathryn D. Perreault, Esq. and Justin Condit, Esq., Bressler, Amery & Ross, PC, Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: October 19, 2020.

Claimant signed the Submission Agreement: October 19, 2020.

Statement of Answer filed by Respondent on or about: December 22, 2020.

Respondent signed the Submission Agreement: December 22, 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 corresponding with Occurrence Numbers 2022021 and 2022022, 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. amendment of the answers to questions 7B and 7F(1) of Claimant's Form U5, from "Yes" to "No;" and
 - d. deletion of the Internal Review and Termination Disclosure Reporting Pages accompanying Occurrence Numbers 2022021 and 2022022;
2. Damages in the amount of \$1.00 from Respondent; and
3. Any other relief as the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested:

1. Claimant's claims be denied in their entirety;
2. Claimant's request for expungement be denied; and
3. Any form of monetary relief be denied.

At the hearing, Claimant withdrew the request for \$1.00 in damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Arbitrator has provided an explanation of the decision in this award. The explanation is for the information of the parties only and is not precedential in nature.

FINDINGS

Claimant did not prove the contested language was either inaccurate, misleading or defamatory.

AWARD

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

1. Claimant's claims are denied in their entirety.
2. Any and all claims for relief not specifically addressed herein 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 = \$ 50.00

**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 = \$ 150.00

Late Pre-Hearing Cancellation Fees

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

July 22, 2021, cancellation requested by Parties = \$ Waived

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), which 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: February 3, 2021 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 100.00
Hearing: September 22, 2021 2 sessions

Total Hearing Session Fees = \$ 150.00

The Arbitrator has assessed the total hearing session fees to Claimant.

ARBITRATOR

Donald Dreyfus

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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

Donald Dreyfus

Donald Dreyfus
Sole Public Arbitrator

09/23/2021

Signature Date

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September 24, 2021

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