

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Lawrence Casey Ennis

Case Number: 21-00685

vs.

Respondent
Merrill Lynch, Pierce, Fenner & Smith Inc.

Hearing Site: New York, New York

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

This case was administered under the Special Proceeding option for simplified cases.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Lawrence Casey Ennis: Megan M. Christensen, Esq., Stevens & Lee, Lawrenceville, New Jersey.

For Respondent Merrill Lynch, Pierce, Fenner & Smith Inc.: Brendan T. Killeen, Esq., Morgan, Lewis & Bockius LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: March 12, 2021.

Lawrence Casey Ennis signed the Submission Agreement: March 12, 2021.

Statement of Answer filed by Respondent on or about: May 5, 2021.

Merrill Lynch, Pierce, Fenner & Smith Inc. signed the Submission Agreement: May 6, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of Form U5 termination entry based on the defamatory nature of the entry in Claimant's Central Registration Depository ("CRD") records.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested an award granting expungement of the Form U5 amendments, and those relevant portions of the Form U4, from Claimant's CRD record on the basis that the statement is defamatory in nature, misleading, inaccurate, and/or erroneous, to include a subsequent expungement of the Reason for Termination explanation on Claimant's CRD; expungement of the "Yes" answers to Questions 7B and 7F(1) of Claimant's Form U5, amending those "Yes" responses to "No;" deletion of any of the accompanying Internal Review and Termination Disclosure Reporting Pages in their entirety; compensatory damages in the amount of \$1.00; and any other relief as the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that the Statement of Claim be denied in its entirety; objected to any demand for damages; and requested that all costs and fees associated with the claim be assessed solely against Claimant.

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.

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:

1. Claimant's request for \$1.00 in compensatory damages is denied.
2. The Arbitrator recommends the expungement of all references to Occurrence Numbers 2101888 and 2101890 from the registration records maintained by the Central Registration Depository ("CRD") for Lawrence Casey Ennis (CRD Number 5688240). Any "Yes" answers should be changed to "No," as applicable.

The Arbitrator 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. Lawrence Casey Ennis must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure Department for review.

3. Respondent is liable for and shall reimburse Claimant \$25.00 for the non-refundable portion of Claimant's filing fee.
4. Any and all claims for relief not specifically addressed herein are denied.

ARBITRATOR'S EXPLANATION OF DECISION

On November 6, 2020, Claimant resigned his employment with Respondent and accepted employment with another brokerage firm. On November 9, 2020, Respondent filed a Form U5 with the CRD. On December 18, 2020, Respondent filed an amended Form U5 with the CRD.

The following documents were received in evidence through the FINRA DR Portal: Claimant's Statement of Claim, Respondent's Statement of Answer, Submission Agreements of the respective parties, Claimant's Broker Check Report, offer of employment, dated July 15, 2016 and Confidentiality Agreement, Form U5, dated November 9, 2020, internal email correspondence regarding amendment of Form U5, and Form U5, dated December 18, 2020.

FINRA has established policies and procedures to ensure that information submitted to and maintained in the CRD system is accurate and complete for investor protection purposes. See The Neutral Corner Vol 2-2010. FINRA guidance regarding expungement of information from the Central Registration Depository in intra-industry disputes provides that:

Under existing CRD policy, and consistent with the 1999 moratorium, FINRA may execute, without a court order, arbitration awards rendered in disputes between firms and associated persons that contain directives to expunge information other than customer dispute information, provided that the arbitration panel states that expungement relief is being granted because of the defamatory nature of the information.
See Notices to Members 999-09 and 99-54.

Here, the information for which expungement is sought has no meaningful regulatory or investor protection value. The statements set forth in the amended Form U5 are false. No evidence of a specific allegation against the Claimant was presented at the hearing. The statements are of a nature that would tend to injure the Claimant in his business, trade or profession, and are defamatory. Accordingly, it is hereby directed that FINRA expunge the disclosure.

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	= \$	50.00
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent Merrill Lynch, Pierce, Fenner & Smith Inc. is assessed the following:

Member Surcharge	= \$	150.00
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Late Pre-Hearing Cancellation Fees

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

August 2, 2021, cancellation requested by the parties	= \$	100.00
August 20, 2021, cancellation requested by the parties	= \$	100.00
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Total Late Pre-Hearing Cancellation Fees	= \$	200.00

The Arbitrator has assessed \$100.00 of the late pre-hearing cancellation fees to Claimant.

The Arbitrator has assessed \$100.00 of the late pre-hearing cancellation 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 @ \$50.00/session	= \$	50.00
Pre-Hearing Conference: July 14, 2021	1 session	
One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: October 28, 2021	1 session	
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Total Hearing Session Fees	= \$	100.00

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

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

ARBITRATOR

Steven Gary Leventhal

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Arbitrator's Signature

Steven Gary Leventhal

Steven Gary Leventhal
Sole Public Arbitrator

11/16/2021

Signature Date

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November 17, 2021

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