

**Award**  
**FINRA Office of Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant  
Cambridge Investment Research, Inc.

Case Number: 17-02630

vs.

Respondent  
Kermit G. Gable, Jr.

Hearing Site: Dallas, Texas

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Nature of the Dispute: Member vs. Associated Person

**REPRESENTATION OF PARTIES**

For Claimant Cambridge Investment Research, Inc. ("Claimant"): Carrie L. Lathrop, Esq. and Seth A. Miller, Esq., Cambridge Investment Research, Inc., Fairfield, Iowa.

Respondent Kermit G. Gable, Jr. ("Respondent") appeared pro se. Respondent was represented by counsel until on or about August 15, 2018.

**CASE INFORMATION**

Statement of Claim filed on or about: October 5, 2017.  
Claimant signed the Submission Agreement: October 2, 2017.

Statement of Answer filed on or about: December 12, 2017.  
Respondent signed the Submission Agreement: October 26, 2017.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract and indemnification. The causes of action related to Claimant's allegation that, pursuant to the terms of the Registered Representative Agreement dated February 16, 2012, Respondent is obligated to reimburse and indemnify Claimant in connection with payments to Respondent's clients after Claimant's review of Respondent's block-trading activities.

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 \$326,837.23 for client reimbursements plus interest thereon, as permitted under Iowa law, from and after the date of each payment; any forum fees, witness and production fees, in-house and outside counsel

fees, and other case-related costs; all costs of arbitration that are awardable in arbitration; and all further costs of obtaining a judgment in state court and further collection efforts, if the judgment entered in this matter is not paid within 30 days as required by the FINRA Code of Arbitration Procedure.

In the Statement of Answer, Respondent requested that the Panel reject Claimant's claim in its entirety and award Respondent his attorney's fees, costs, as well as any relief deemed just and proper by the Panel.

At the close of the hearing, Claimant requested compensatory damages in the amount of \$326,837.23, attorneys' fees in an amount between \$50,000.00 and \$60,000.00, costs and expenses in an amount between \$5,500.00 and \$6,000.00, sanctions in the amount of \$10,000.00, interest, forum fees, an adverse inference against Respondent, and dismissal of defenses asserted by Respondent.

At the close of the hearing, Respondent requested \$6,956.61 in attorneys' fees; \$70,000.00 in personal fees (350 hours at \$200.00 per hour); transportation costs, including fuel, tolls, and supplies in the amount of \$238.00; and \$25,000.00 in punitive damages.

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

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

Claimant filed a Motion for Sanctions, on or about October 13, 2018. Respondent filed a Response to Claimant's Request for Sanctions, on or about October 14, 2018. Claimant filed a Response to Respondent's Response to Claimant's Motion for Sanctions, on or about October 16, 2018. The Panel heard arguments on Claimant's Motion for Sanctions, on the record at the hearing. Claimant's Motion for Sanctions is denied herein.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the Panel 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. Claimant is liable for and shall pay to Respondent the sum of \$43,750.00 in equitable relief.
3. Claimant is liable for and shall pay to Respondent interest on the above-stated sum at the rate of 5% per annum from and including the date of service of this Award through and including the date this Award is paid in full.

4. Claimant is liable for and shall pay to Respondent the sum of \$6,956.61 in attorneys' fees pursuant to the terms of the Registered Representative Agreement dated February 6, 2012.
5. Other than forum fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter.
6. Any and all claims for relief not specifically addressed herein, including punitive damages and sanctions, are denied.

### **FEES**

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

#### **Filing Fees**

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

Initial Claim Filing Fee	=\$ 2,125.00
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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, Claimant is assessed the following:

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

#### **Discovery-Related Motion Fees**

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

Three (3) decisions on discovery-related motions on the papers with one (1) arbitrator @ \$200.00/decision	=\$ 600.00
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Claimant submitted two (2) discovery-related motions

Respondent submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	=\$ 600.00
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The Panel has assessed \$600.00 of the discovery-related motion fees to Claimant.

#### **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), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ \$1,125.00/session		= \$ 1,125.00
Pre-hearing conference: February 20, 2018	1 session	
Eight (8) hearing sessions @ \$1,125.00/session		= \$ 9,000.00
Hearing Dates: October 22, 2018	2 sessions	
October 23, 2018	2 sessions	
October 24, 2018	2 sessions	
October 25, 2018	2 sessions	
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Total Hearing Session Fees		= \$10,125.00

The Panel has assessed \$10,125.00 of the hearing session fees to Claimant.

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

**ARBITRATION PANEL**

Arthur H. Geffen	-	Public Arbitrator, Presiding Chairperson
Bill Lamoreaux	-	Public Arbitrator
Anthony William (Bill) Kashouty	-	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**



\_\_\_\_\_  
Arthur H. Geffen  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
11-12-18  
Signature Date

\_\_\_\_\_  
Bill Lamoreaux  
Public Arbitrator

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

\_\_\_\_\_  
Anthony William (Bill) Kashouty  
Non-Public Arbitrator

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11/12/18

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Date of Service (For FINRA Office of Dispute Resolution office use only)

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*Bill Lamoreaux*

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Bill Lamoreaux  
Public Arbitrator

*11 / 12 / 18*  
\_\_\_\_\_  
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