

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

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In the Matter of the Arbitration Between:

Claimant

Timothy Michael Hourihan

Case Number: 20-00870

vs.

Respondents

Voya Financial Partners, LLC

Dorene Mulholland

Voya Retirement Insurance and Annuity Company

Hearing Site: Hartford, Connecticut

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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, Associated Person, and Non-Member

The evidentiary hearing was conducted partially by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Timothy Michael Hourihan: Francis D. Dibble, Jr., Esq., and Elizabeth S. Zuckerman, Esq., Bulkley, Richardson and Gelinas, LLP, Springfield, Massachusetts.

For Respondents Voya Financial Partners, LLC, Dorene Mulholland, and Voya Retirement Insurance and Annuity Company: Brian J. Palmeri, Esq., Winget, Spadafora & Schwartzberg, LLP, Stamford, Connecticut.

**CASE INFORMATION**

Statement of Claim filed on or about: March 16, 2020.

Timothy Michael Hourihan signed the Submission Agreement: March 16, 2020.

Joint Statement of Answer filed by Respondents on or about: June 19, 2020.

Voya Financial Partners, LLC signed the Submission Agreement: June 19, 2020.

Dorene Mulholland signed the Submission Agreement: June 19, 2020.

Voya Retirement Insurance and Annuity Company signed the Submission Agreement: June 19, 2020.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: expungement; defamation; and negligence.

Unless specifically admitted in the Statement of Answer, Respondents 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 in the amount of at least \$3,000,000.00, together with interest, fees, and costs; an order of expungement directing the removal of the defamatory disclosure or, if the Panel deems appropriate, reformation replacing the disclosure; and such other and further relief as deemed just and proper.

In the Statement of Answer, Respondents requested that the Panel dismiss Claimant's claims in their entirety and with prejudice; deny Claimant's claim for expungement; and grant such other and further relief as the Panel deems just and appropriate.

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

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

The hearings in this arbitration were held in-person on September 22-24, 2021. Pursuant to an agreement between the parties and the Panel, the hearing on September 27, 2021 was held virtually via Zoom.

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. Respondents Voya Financial Partners, LLC and Voya Retirement Insurance and Annuity Company are jointly and severally liable for and shall pay to Claimant the sum of \$300,000.00 in compensatory damages.
2. The Panel recommends the expungement of the Reason for Termination and Termination Explanation in Section 3 of Timothy Michael Hourihan's (CRD Number 4152493) Form U5 filed by Voya Financial Partners, LLC (CRD Number 34815) on August 20, 2018 and maintained by the Central Registration Depository ("CRD"). The Reason for Termination shall be changed to "Voluntary" and the Termination Explanation should be deleted in its entirety and shall appear blank. This directive shall apply to all references to the Reason for Termination and Termination Explanation.

The Panel further recommends the expungement of all references to Occurrence Number 1993334 maintained by the CRD for Timothy Michael Hourihan. Any "Yes" answers should be changed to "No," as applicable.

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. Timothy Michael Hourihan must forward a copy of this Award to FINRA's Credentialing, Registration, Education and Disclosure Department for review.

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 = \$ 2,000.00

*\*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 that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent Voya Financial Partners, LLC is assessed the following:

Member Surcharge = \$ 3,025.00  
Member Process Fee = \$ 6,175.00

#### **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 Arbitrators, including a pre-hearing conference with the Arbitrators, 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 25, 2021 1 session

Two (2) pre-hearing sessions with the Panel @ \$1,400.00/session = \$ 2,800.00  
Pre-Hearing Conferences: July 28, 2020 1 session  
June 1, 2021 1 session

Eight (8) hearing sessions @ \$1,400.00/session = \$ 11,200.00  
Hearings: September 22, 2021 2 sessions  
September 23, 2021 2 sessions  
September 24, 2021 2 sessions

September 27, 2021      2 sessions

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Total Hearing Session Fees      =\$ 14,450.00

The Panel has assessed \$1,625.00 of the hearing session fees to Claimant.

The Panel has assessed \$1,625.00 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed \$11,200.00 of the hearing session fees jointly and severally to Respondents Voya Financial Partners, LLC and Voya Retirement Insurance and Annuity Company.

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

**ARBITRATION PANEL**

Jim Geiger	-	Public Arbitrator, Presiding Chairperson
Mae A. Brudner	-	Public Arbitrator
Franklin Sariel Schwerin	-	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**

***Jim Geiger***

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Jim Geiger  
Public Arbitrator, Presiding Chairperson

**10/29/2021**

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Signature Date

***Mae A. Brudner***

\_\_\_\_\_  
Mae A. Brudner  
Public Arbitrator

**10/30/2021**

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

***Franklin Sariel Schwerin***

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Franklin Sariel Schwerin  
Non-Public Arbitrator

**10/30/2021**

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

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November 01, 2021

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