

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

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In the Matter of the Arbitration Between:

Claimants

Edward (“Ned”) Christian Glass Tyree, III  
Tammy Hillman

Case Number: 20-01411

vs.

Respondents

RBC Capital Markets, LLC  
Richard Ruckart

Hearing Site: Charlotte, North Carolina

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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 Persons vs. Member and Associated Person

This case was decided by a majority-public panel.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimants Edward (“Ned”) Christian Glass Tyree, III and Tammy Hillman: Todd A. Zuckerbrod, Esq., Todd A. Zuckerbrod, P.A., Boca Raton, Florida.

For Respondents RBC Capital Markets, LLC (“RBC”) and Richard Ruckart (“Ruckart”): Amanda E. Colvin, Esq., Bryan Cave Leighton Paisner LLP, St. Louis, Missouri.

**CASE INFORMATION**

Statement of Claim filed on or about: May 5, 2020.

Edward (“Ned”) Christian Glass Tyree, III signed the Submission Agreement: May 5, 2020.

Tammy Hillman signed the Submission Agreement: May 5, 2020.

Statement of Answer filed by Respondents on or about: June 25, 2020

RBC Capital Markets, LLC signed the Submission Agreement: June 25, 2020.

Richard Ruckart signed the Submission Agreement: June 25, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: defamation; defamation per se; wrongful termination; breach of the standards and customs of the securities

industry as evidenced by violation of FINRA rules and regulations; fraudulent misrepresentations; and, negligent misrepresentations. The causes of action relate to Claimants' termination of employment with Respondent RBC.

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, Claimants requested: compensatory damages in the amount of \$2,000,000.00, inclusive of damages, interest, costs and such other and further relief deemed just and proper by the Panel; punitive damages; and expungement of the improper cause of termination from Claimants' respective Central Registration Depository ("CRD") records.

In the Statement of Answer, Respondents requested: dismissal of Claimants' claims with prejudice; costs and fees incurred in connection with this proceeding; and such other relief deemed just and proper by the Panel.

At the hearing, Claimant Edward ("Ned") Christian Glass Tyree, III requested an award of damages in the amount of \$1,024,166.00. Claimant Tammy Hillman requested an award of damages in the amount of \$450,000.00. Claimants requested punitive damages in an amount to be set by the Panel. Claimants also requested expungement and sought a re-characterization on the Form U5 of the Reason for Termination from "discharged" to "voluntary." Claimants further sought the removal of the Termination Explanation on the Form U5.

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

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

On July 10, 2020, Respondent Ruckart filed a Motion to Dismiss pursuant to Rule 13504(a)(6)(B) of the Code of Arbitration Procedure ("Code") in which he asserted that he was not associated with the conduct at issue in this case, and is entitled to the affirmative defense of qualified privilege. On July 27, 2020, Claimants filed a response opposing the Motion to Dismiss in which they asserted that Respondent Ruckart was clearly connected to the dispute at issue because he was the source of the e-mail that constituted the basis upon which Claimants were terminated. On August 3, 2020, Respondent Ruckart filed a reply in which he asserted, among other things, that Claimant's claims arose solely from Respondent RBC's decision to terminate Claimants' employment and certain disclosures that Respondent RBC subsequently made on Claimants' respective Form U5 forms regarding their termination – not from any alleged conduct by Respondent Ruckart. On October 13, 2020, the Panel heard oral arguments from the parties and thereafter issued an Order that denied the Motion.

The Panel 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.

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. The Panel dismisses all claims asserted by Claimants against Respondent Ruckart, with prejudice.
2. The Panel found Respondent RBC's investigator's interview tactics to be in need of corporate review. However, Respondent RBC's investigator's inappropriate interview tactics do not amount to wrongful termination under North Carolina law. Additionally, violations of FINRA Rules do not support private causes of action. Therefore, Claimants' claims against Respondent RBC are denied in their entirety, with the exception of granting limited expungement relief described below.
3. The Panel recommends the expungement of the Termination Explanation on Claimant Edward ("Ned") Christian Glass Tyree, III's (CRD Number 2227717) Form U5 filed on November 5, 2019 by RBC Capital Markets, LLC and maintained by the CRD. The Termination Explanation should be deleted in its entirety and should be replaced with the following language: "Violation of RBC's written respectful communication policies by sending two emails which violated those policies. Conduct did not involve customers, customer accounts, or sales practices." The Reason for Termination shall remain the same.

These directives shall apply to all references to the Reason for Termination and Termination Explanation.

The above recommendations are made with the understanding that the registration records are not automatically amended. Claimant Edward ("Ned") Christian Glass Tyree, III must obtain confirmation of this Award from a court of competent jurisdiction before the CRD will execute the expungement directive, and must forward a copy of the Court Order to FINRA's Credentialing, Registration, Education and Disclosure Department for the amendments to be incorporated into the Registration Records.

4. The Panel recommends the expungement of the Termination Explanation on Claimant Tammy Hillman's (CRD Number 2471613) Form U5 filed on October 31, 2019 by RBC Capital Markets, LLC and maintained by the CRD. The Termination Explanation should be deleted in its entirety and should be replaced with the following language: "Violation of RBC's written respectful communication policies by replying to one email which violated those policies. Conduct did not involve customers, customer accounts, or sales practices." The Reason for Termination shall remain the same.

These directives shall apply to all references to the Reason for Termination and Termination Explanation.

The above recommendations are made with the understanding that the registration records are not automatically amended. Claimant Tammy Hillman must obtain confirmation of this Award from a court of competent jurisdiction before the CRD will execute the expungement directive, and must forward a copy of the Court Order to FINRA's Credentialing, Registration,

Education and Disclosure Department for the amendments to be incorporated into the Registration Records.

5. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and attorneys' fees, are denied.

**FEES**

Pursuant to the 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.*

**Late Pre-Hearing Cancellation Fees**

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

February 16, 2021, cancellation requested by the parties WAIVED

The Panel waived the late pre-hearing cancellation fees.

**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 RBC 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 Arbitrator(s), including a pre-hearing conference with the Arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) pre-hearing sessions with the Panel @ \$1,400.00/session = \$ 4,200.00  
Pre-Hearing Conferences: August 27, 2020 1 session  
October 7, 2020 1 session  
February 24, 2021 1 session

Eleven (11) hearing sessions @ \$1,400.00/session = \$ 15,400.00  
Hearings: April 26, 2021 2 sessions  
April 27, 2021 2 sessions  
April 28, 2021 2 sessions  
April 29, 2021 2 sessions  
April 30, 2021 2 sessions

May 11, 2021

1 session

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Total Hearing Session Fees	= \$ 19,600.00
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The Panel has assessed the total hearing session fees to Respondent RBC.

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

**ARBITRATION PANEL**

Chase Boone Saunders	-	Public Arbitrator, Presiding Chairperson
Richard E. Miley	-	Public Arbitrator
Kathleen Dooley	-	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**

***Chase Boone Saunders***

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Chase Boone Saunders  
Public Arbitrator, Presiding Chairperson

**05/25/2021**

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

***Richard E. Miley***

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Richard E. Miley  
Public Arbitrator

**05/25/2021**

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

***Kathleen Dooley***

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Kathleen Dooley  
Non-Public Arbitrator

**05/25/2021**

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

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May 25, 2021

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