

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

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In the Matter of the Arbitration Between:

Claimant  
Vincent Montanti

Case Number: 20-01761

vs.

Respondent  
INVEST Financial Corporation

Hearing Site: Boca Raton, Florida

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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

**REPRESENTATION OF PARTIES**

For Claimant Vincent Montanti: Ronald Shindler, Esq., Fowler White Burnett P.A., Fort Lauderdale, Florida.

For Respondent INVEST Financial Corporation: Eric A. Michaels, Esq., Saretsky, Hart, Michaels & Gould, Birmingham, Michigan.

**CASE INFORMATION**

Statement of Claim filed on or about: June 4, 2020.

Vincent Montanti signed the Submission Agreement: June 3, 2020.

Statement of Answer filed by Respondent on or about: June 23, 2020.

INVEST Financial Corporation signed the Submission Agreement: June 17, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted a claim seeking expungement of customer dispute information from registration records maintained by the Central Registration Depository (“CRD”).

In the Statement of Answer, Respondent took no position on Claimant’s expungement request.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 2052594; compensatory damages in the amount of \$10.00; and for such other and further relief that the Arbitrator deems appropriate.

In the Statement of Answer, Respondent requested: that Claimant's request for monetary relief be denied; that Claimant should bear all fees and costs associated with the proceedings; and that Respondent not be required to participate in the expungement hearing, except as specifically required by the Arbitrator.

At the close of the hearing, Claimant withdrew the request for \$10.00 in damages.

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

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

On December 18, 2020, Claimant sent via Federal Express to the customers in Occurrence Number 2052594 ("Customers") a copy of the Statement of Claim and notice of the date and time of the expungement hearing, as well as of their right to participate therein.

The Arbitrator conducted a recorded, telephonic hearing on January 19, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent did participate in the expungement hearing and did not oppose the request for expungement.

The Customers did not participate in the expungement hearing. The Arbitrator found that the Customers had notice of the expungement request and hearing.

The Arbitrator reviewed Claimant's BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrence in the CRD.

The Arbitrator also reviewed the settlement documents, considered the amount of payments made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the expungement request and that Claimant did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony; exhibits.

### **AWARD**

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

1. The Arbitrator recommends the expungement of all references to Occurrence Number 2052594 from registration records maintained by the CRD for Claimant Vincent Montanti (CRD Number 5277483) with the understanding that, pursuant to Notice to Members 04-16, Claimant Vincent Montanti must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 13805 of the Code of Arbitration Procedure (“Code”), the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons:

Claimant’s expungement request relates to a FINRA arbitration matter filed by the Customers in 2019 (FINRA Arbitration Number 19-01890). At this hearing, Claimant presented nine (9) exhibits, all of which have been admitted, and also provided sworn testimony, which has been determined to be credible. Upon a review of the various Exhibits presented, combined with the testimony of the Claimant, it was demonstrated that the allegations made by the Customers in their complaint were inconsistent with such Exhibits and testimony. Exhibit 4 represents the account applications (which were signed by each of the Customers) for each of the Customers (husband and wife). The Exhibit reflects the net worth of the Customers' total portfolio, and clearly shows that the investment in question was less than 10% of the total, which was contrary to the Customers' claim that Claimant caused them to be overly concentrated in the investment in question. Exhibit 6, a detailed explanation of the investment program in question and, based on Claimant's testimony, was reviewed with the Customers. This document highlighted many of the risk factors involved in such an investment and many of the negative features of this investment. This document clearly refutes the Customers' claims that Claimant failed to adequately explain the risks of the program. Exhibit 5 is Respondent's Order Memorandum form which was signed by each of the Customers prior to the execution of the Order. This form is routinely completed prior to the completion of a transaction. This form, which was personally reviewed with the Customers by Claimant also describes some of the negative features of the investment. It also defines the financial requirements that must be met by any prospective purchaser prior to execution. It is clear from a review of other Exhibits (7, 8 & 9) that the Customers fully met the requirements enumerated.

Finally, based on Claimant's testimony and further review of Exhibit 4, it was clear that the investment recommended by Claimant met the investment objectives of the Customers, and that the Customers complaint was precipitated by an unexpected drop in the value of the investment, which possibility the Customers were made aware of, and was beyond the knowledge or control of Claimant.

It should also be noted that Claimant was not aware of the settlement with the Customers until after it was completed, nor did he participate in the discussions about it, nor did he make any contribution to it.

Therefore, based on the documentary evidence and the credible testimony of

Claimant, it is clear that the Customers' allegations against Claimant in their complaint was factually impossible, clearly erroneous and false pursuant to FINRA Rule 2080(b)(1)(A) and (C).

2. Any and all claims for relief not specifically addressed herein 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	= \$	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(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
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#### **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: October 1, 2020	1 session	

One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing Date: January 19, 2021	1 session	

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Total Hearing Session Fees	= \$	100.00
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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**

Mark A Bilawsky

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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**

**Mark A Bilawsky**

Mark A Bilawsky  
Sole Public Arbitrator

**01/28/2021**

Signature Date

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February 01, 2021

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