

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

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In the Matter of the Arbitration Between:

Claimant  
Bryan D. Montemurro

Case Number: 20-01977

vs.

Respondent  
VALIC Financial Advisors, Inc.

Hearing Site: Kansas City, Missouri

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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

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Bryan D. Montemurro (“Claimant”): Samantha Pastor, Esq. and Dochter Kennedy, Esq., AdvisorLaw, LLC., Westminster, Colorado.

For Respondent VALIC Financial Advisors, Inc. (“Respondent”): Matthew I. Penfield, Esq., Bressler, Amery & Ross, PC, Birmingham, Alabama.

**CASE INFORMATION**

Statement of Claim filed on or about: June 23, 2020.

Amended Statement of Claim filed on or about: January 20, 2022.

Claimant signed the Submission Agreement: June 23, 2020.

Statement of Answer filed on or about: September 24, 2020

Respondent signed the Submission Agreement: September 24, 2020.

**CASE SUMMARY**

In the Statement of Claim, as amended, Claimant asserted a claim alleging that the Form U5 filed by Respondent, as part of registration records maintained by the Central Registration Depository (“CRD”), is defamatory in nature.

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

### **RELIEF REQUESTED**

In the Statement of Claim, as amended, Claimants requested expungement of the Form U5 filed by Respondent and an award of damages in the amount of \$1.00.

In the Statement of Answer, Respondent requested that an award be entered denying Claimant's request for expungement and any form of monetary relief.

At the hearing, Claimant withdrew the request for \$1.00 in damages.

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

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

On January 20, 2022, Claimant filed a Motion to Amend the Statement of Claim ("Motion to Amend"), to which no response was filed. In an Order dated January 24, 2022, the Arbitrator granted the Motion to Amend.

### **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:

Claimant's request for expungement is 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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#### **Late Pre-Hearing Cancellation Fees**

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

October 16, 2020, cancellation requested by Claimant	= \$	100.00
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Total Late Pre-Hearing Cancellation Fees	= \$	100.00

The Arbitrator has assessed the total late pre-hearing cancellation fees to Claimant.

**Postponement Fees**

Postponements granted during these proceedings for which fees were assessed or waived:

September 21-24, 2021, postponement requested by the parties	= \$	50.00
January 11-14, 2022, postponement requested by Respondent	= \$	50.00
February 2-4, 2022, postponement requested by the parties		Waived
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Total Postponement Fees	= \$	100.00

The Arbitrator has assessed \$75.00 of the postponement fees to Claimant.

The Arbitrator has assessed \$25.00 of the postponement 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 @ \$50.00/session	= \$	50.00
Pre-Hearing Conference: December 8, 2020	1 session	
One (1) hearing session @ \$50.00/session	= \$	50.00
Hearing Date: February 1, 2022	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**

Philip J. Glick

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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**

***Philip J. Glick***

Philip J. Glick  
Sole Public Arbitrator

**02/11/2022**

Signature Date

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February 11, 2022

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