

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

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In the Matter of the Arbitration Between:

Claimant  
Justin B. Murphy

Case Number: 20-02176

vs.

Respondent  
Vanguard Marketing Corp.

Hearing Site: Minneapolis, Minnesota

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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

This case was decided by a majority-public panel.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Justin B. Murphy (“Claimant”): Gary R. Irwin, Esq., Gary Irwin & Associates, LLC, Plymouth, Minnesota.

For Respondent Vanguard Marketing Corp. (“Respondent”): Kenneth J. Turnbull, Esq., Morgan, Lewis & Bockius, LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: July 10, 2020.  
Claimant signed the Submission Agreement: June 19, 2020.

Statement of Answer filed on or about: September 15, 2020.  
Respondent signed the Submission Agreement: September 19, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: defamation; unfair withholding of commissions/bonuses; procurement doctrine; quantum meruit; unjust enrichment; tortious interference with prospective economic advantage; wrongful termination; and violation of Minn. Stat. §§ 181.13, 181.145, and 325E.37. The causes of action related to Claimant’s allegations that he was unlawfully terminated in retaliation for filing a legitimate workers’

compensation claim and that the Form U5 filed by Respondent, as part of registration records maintained by the Central Registration Depository ("CRD"), defamed him.

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, Claimant requested compensatory damages in excess of \$1,000,000.00; punitive damages in excess of \$1,000,00.00 for defamation per se; statutory double damages for withheld commissions/bonuses; expenses, interest, and attorneys' fees; expungement of the Form U5 filed by Respondent; and other damages as the Panel deems equitable, including but not limited to damages for defamation per se and wrongful termination, including wrongful termination as retaliation for filing a worker's compensation claim.

In the Statement of Answer, Respondent requested that the Panel deny Claimant's claims in their entirety.

At the hearing, Claimant requested \$136,632.00 for a lost bonus, \$7,000,000.00-\$9,000,000.00 in lost future wages, and \$26,500.00 in costs.

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

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

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. Claimant's claims are denied in their entirety.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, are denied.

### **FEES**

Pursuant to the Code of Arbitration Procedure, 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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent 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:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$ 450.00
Pre-Hearing Conference: March 22, 2021	1 session
One (1) pre-hearing session with the Panel @ \$1,400.00/session	= \$ 1,400.00
Pre-Hearing Conference: November 2, 2020	1 session
Eight (8) hearing sessions @ \$1,400.00/session	= \$ 11,200.00
Hearings: September 21, 2021	2 sessions
September 22, 2021	2 sessions
September 23, 2021	2 sessions
September 24, 2021	2 sessions
<b>Total Hearing Session Fees</b>	<b>= \$ 13,050.00</b>

The Panel has assessed \$6,525.00 of the hearing session fees to Claimant.

The Panel has assessed \$6,525.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Jonathan B. Gilbert	-	Public Arbitrator, Presiding Chairperson
Ansis Viksnins	-	Public Arbitrator
Larry N. Litt	-	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**

***Jonathan B. Gilbert***

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Jonathan B. Gilbert  
Public Arbitrator, Presiding Chairperson

**10/15/2021**

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

***Ansis Viksnins***

\_\_\_\_\_  
Ansis Viksnins  
Public Arbitrator

**10/18/2021**

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

***Larry N. Litt***

\_\_\_\_\_  
Larry N. Litt  
Non-Public Arbitrator

**10/18/2021**

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

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October 18, 2021

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