

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Matthew John Williams

Case Number: 20-02946

vs.

Respondent
Vanguard Marketing Corporation

Hearing Site: Phoenix, Arizona

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 Matthew John Williams (“Claimant”): Stephan Louviere, Esq., Louviere Law Firm, P.A., Pompano Beach, Florida.

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

CASE INFORMATION

Statement of Claim filed on or about: September 2, 2020.
Claimant signed the Submission Agreement: September 2, 2020.

Statement of Answer filed by Respondent on or about: October 23, 2020.
Respondent signed the Submission Agreement: October 21, 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 2070468 from Claimant’s CRD records pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or

information is false.

In the Statement of Answer, Respondent did not set forth a specific relief request.

OTHER ISSUES CONSIDERED AND DECIDED

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

On February 18, 2021, Claimant advised that the customer in Occurrence Number 2070468 (“Customer”) was served with the Statement of Claim and notice of the date and time of the expungement hearing and filed notice of FedEx delivery confirmation.

The Panel conducted a recorded, telephonic hearing on May 3, 2021, so the parties could present oral argument and evidence on Claimant’s request for expungement.

Respondent participated in the expungement hearing and, as stated in the Statement of Answer, did not oppose the request for expungement.

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

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

The Panel noted that the dispute related to Occurrence Number 2070468 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimant’s testimony; various exhibits and audio recordings of the Customer’s telephone calls with Claimant and other Vanguard representatives on January 15, 2020, March 19, 2020, and April 3, 2020; various emails between the Customer and Vanguard representatives; Vanguard’s investment plan prepared for the Customer before Claimant became his financial advisor; and the S&P 500 chart and track record for 2020.

The Award in this matter may be executed in counterpart copies.

AWARD

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

The Panel recommends the expungement of all references to Occurrence Number 2070468 from registration records maintained by the CRD for Claimant Matthew John Williams (CRD Number 2887300) with the understanding that, pursuant to Notice to Members 04-16, Claimant Matthew John Williams 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 Panel has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The claim, allegation, or information is false.

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

Based on all of the evidence submitted at the hearing, including the complaining Customer’s own admissions and statements made during telephone calls with Claimant, the Customer’s claims and allegations stated on page 8 of Claimant’s BrokerCheck® Report not only are factually erroneous but they are false for the following reasons:

- 1) The Customer’s allegation that he requested the investment ratio in his Vanguard accounts be lowered from two-thirds stocks and one-third bonds is false. The Customer never requested any changes to the investment allocation and he expressly and verbally acknowledged to Claimant that he was satisfied with the current allocation of 65% stocks and 35% bonds until the next scheduled rebalancing, which was not scheduled to occur until August 2020.
- 2) The Customer’s allegation that he lost \$675,000 between January 15, 2020 and March 19, 2020 because his investment allocation was not lowered as he requested is erroneous and false. First, as stated above, he made no such request. Secondly, the alleged \$675,000 loss included losses from investments in all of his Vanguard accounts, some of which Claimant could not make any changes to. Third, the alleged \$675,000 losses covered periods that preceded January 15, 2020 to March 19, 2020, the periods during which Claimant was not the Customer’s financial advisor. Lastly, much of the alleged losses were actually not losses but were reductions to the amount of unrealized gains for the investments. In fact, when the Customer instructed Vanguard to sell all of his investments on March 19, 2020, he still had an overall net gain from his investments at Vanguard.
- 3) Any losses the Customer incurred were result of not following Claimant’s advice against selling all of his investments on March 19, 2020. If the Customer had followed Claimant’s advice and not sold those investments, he would have recouped all of his losses and would have realized significant profits a few months later when the market recovered and reached new highs.
- 4) Additionally, the evidence presented by Claimant indicated that Respondent’s system for receiving telephonic and voicemail messages from customers was poor in that the Customer was put on hold for long periods of time and the voicemail messages he claims to have left for his financial advisor, Claimant, were never received by Claimant.

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 = \$ 1,575.00

**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 person at the time of the event giving rise to the dispute. Accordingly, as a party Respondent is assessed the following:

Member Surcharge = \$ 1,900.00

Member Process Fee = \$ 3,750.00

Postponement Fees

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

February 25, 2021, postponement requested by Claimant = \$ 1,125.00

Total Postponement Fees = \$ 1,125.00

The Panel has assessed the total postponement fees to Claimant.

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

Two (2) hearing sessions on expungement request @ \$1,125.00/session = \$ 2,250.00

Hearings: May 3, 2021 2 sessions

Total Hearing Session Fees = \$ 2,250.00

The Panel has assessed the total hearing session fees to Claimant.

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

ARBITRATION PANEL

Louis M. Parker	-	Public Arbitrator, Presiding Chairperson
Carrie Lynette Thompson Jones	-	Public Arbitrator
Denis Frank	-	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

Louis M. Parker

Louis M. Parker
Public Arbitrator, Presiding Chairperson

05/18/2021

Signature Date

Carrie Lynette Thompson Jones

Carrie Lynette Thompson Jones
Public Arbitrator

05/17/2021

Signature Date

Denis Frank

Denis Frank
Non-Public Arbitrator

05/17/2021

Signature Date

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May 18, 2021

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