

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

---

In the Matter of the Arbitration Between:

Claimant  
Javier Ovalles

Case Number: 20-03645

vs.

Respondent  
Transamerica Investors Securities Corp.

Hearing Site: San Francisco, California

---

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**

Claimant Javier Ovalles (“Claimant”) appeared pro se.

For Respondent Transamerica Investors Securities Corp. (“Respondent”): Misty A. Murray, Esq. and Michael Newman, Esq., Hinshaw & Culbertson LLP, Los Angeles, California.

**CASE INFORMATION**

Statement of Claim filed on or about: October 26, 2020.  
Claimant signed the Submission Agreement: October 26, 2020.

Statement of Answer filed on or about: March 12, 2021  
Respondent signed the Submission Agreement: March 11, 2021.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: the Form U5 filed by Respondent, as part of registration records maintained by the Central Registration Depository (“CRD”), is defamatory in nature and wrongful termination. The causes of action relate to Claimant’s termination of employment with Respondent.

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:

1. Expungement of misleading allegations in Claimant's Form U5 with the Central Registration Depository ("CRD");
2. Compensatory damages in the amount of \$100,000.00 from lost wages, compensation, and bonuses;
3. Compensatory damages in the amount of \$100,000.00 from lost retirement and other benefits;
4. Reimbursement of penalties and taxes paid for premature withdrawal of retirement funds to maintain standard of living in the amount of \$15,000.00;
5. Costs associated with this arbitration claim in the amount of \$10,000.00;
6. Monetary relief due to hardship in the amount of \$20,000.00;
7. Injunction from destruction of records;
8. Punitive damages; and
9. Such other damages as the Panel deems appropriate.

In the Statement of Answer, Respondent requested that the Statement of Claim be denied in its entirety.

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

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

On October 1, 2021, Respondent filed a Motion for Sanctions. On October 11, 2021, Claimant filed a response opposing the Motion for Sanctions. On October 15, 2021, Respondent replied in support of the Motion for Sanctions. On October 22, 2021, the Panel granted the Motion for Sanctions and ordered Claimant to pay \$500.00 to Respondent for repeated failures to respond to discovery orders.

On July 9, 2021, Respondent filed a Motion to Dismiss pursuant to Rule 13504 of the Code of Arbitration Procedure ("Code"). On July 26, 2021, Claimant filed a response opposing the Motion to Dismiss. On July 30, 2021, Respondent replied in support of the Motion to Dismiss. On October 26, 2021, the Panel heard oral arguments on the Motion to Dismiss. The Panel hereby grants the Motion to Dismiss pursuant to Rule 13504 with prejudice on the following grounds:

Respondent was not associated with the account, security, or conduct at issue. Claimant was employed by Transamerica Financial Life Insurance Company ("TFLIC"). He was terminated by that company. He filed his claim against Respondent, a subsidiary of TFLIC, but nevertheless, a separate company. However, Respondent was not his employer and not the company that allegedly caused his damages.

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

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the October 26, 2021

recorded pre-hearing conference, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed with prejudice pursuant to Rule 13504 of the Code.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, 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	= \$	1,425.00
--------------------------	------	----------

*\*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	= \$	1,700.00
Member Process Fee	= \$	3,250.00

#### **Late Pre-Hearing Cancellation Fees**

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

April 28, 2021, cancellation requested by Claimant		WAIVED
--	--	--------

#### **Discovery-Related Motion Fees**

Fees apply for each decision rendered on a discovery-related motion.

Two (2) decisions on discovery-related motions on the papers with the Panel @ \$600.00/decision	= \$	1,200.00
---	------	----------

Respondent submitted two (2) discovery-related motions

---

Total Discovery-Related Motion Fees	= \$	1,200.00
-------------------------------------	------	----------

The Panel has assessed \$600.00 of the discovery-related motion fees to Claimant.

The Panel has waived \$600.00 of the discovery-related motion fees.

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

Three (3) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	3,375.00
Pre-Hearing Conferences: May 14, 2021	1 session	
September 10, 2021	1 session	
October 26, 2021	1 session	
<hr/>		
Total Hearing Session Fees	= \$	3,375.00

The Panel has assessed \$1,968.75 of the hearing session fees to Claimant.

The Panel has assessed \$1,406.25 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

William W. Haskell	-	Public Arbitrator, Presiding Chairperson
Arocles Aguilar	-	Public Arbitrator
Douglas J. Pavese	-	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**

***William W. Haskell***

\_\_\_\_\_  
William W. Haskell  
Public Arbitrator, Presiding Chairperson

**10/29/2021**

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

***Arocles Aguilar***

\_\_\_\_\_  
Arocles Aguilar  
Public Arbitrator

**11/02/2021**

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

***Douglas J. Pavese***

\_\_\_\_\_  
Douglas J. Pavese  
Non-Public Arbitrator

**10/30/2021**

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

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.

November 02, 2021

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