

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

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In the Matter of the Arbitration Between:

Claimant  
Thomas Andrew Spires

Case Number: 20-03680

vs.

Respondent  
Vanguard Marketing Corporation

Hearing Site: Philadelphia, Pennsylvania

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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 Thomas Andrew Spires: Larry M. Keller, Esq., Sidkoff, Pincus & Green, P.C., Philadelphia, Pennsylvania.

For Respondent Vanguard Marketing Corporation: Shannon L.C. Ammon, Esq., Morgan, Lewis & Bockius LLP, Philadelphia, Pennsylvania.

**CASE INFORMATION**

Statement of Claim filed on or about: October 30, 2020.

Thomas Andrew Spires signed the Submission Agreement: October 30, 2020.

Statement of Answer filed by Respondent on or about: January 21, 2021.

Vanguard Marketing Corporation signed the Submission Agreement: December 2, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: defamation-libel per se and request for expungement.

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: expungement of the “Termination Explanation” in Claimant’s Form U5 and substitute the statement with “Terminated without Cause” in its place and further, clearly state the Panel is recommending expungement based on the defamatory nature of the information in the CRD system; unspecified compensatory damages; punitive damages; attorneys’ fees and costs, including expert witness fees; and such other and further relief as deemed just and appropriate.

In the Statement of Answer, Respondent requested that Claimant’s 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 November 23, 2021, Respondent filed a Motion for Zoom Hearing. Claimant did not oppose the motion. On November 30, 2021, the Panel granted the Motion for Zoom Hearing.

On January 20, 2022, Claimant filed a Settlement Agreement dismissing the defamation claim and any claim for monetary damages. Therefore, the Panel made no determination with respect to these claims contained in the Statement of Claim.

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. The Panel recommends the expungement of the Reason for Termination and Termination Explanation in Section 3 of Thomas Andrew Spires’ (CRD Number 5079472) Form U5 filed by Vanguard Marketing Corporation (CRD Number 7452) on November 22, 2019 and maintained by the Central Registration Depository (“CRD”). The Reason for Termination shall be changed to “Other.” The Termination Explanation shall be replaced with the following language: “Terminated without Cause.” This directive shall only apply to the November 22, 2019 Form U5 filing by Vanguard Marketing Corporation.

The above recommendations are made with the understanding that the registration records are not automatically amended. Thomas Andrew Spires must obtain confirmation of this Award from a court of competent jurisdiction, before the CRD will execute the expungement directive, and must forward a copy of the Court Order to FINRA’s Credentialing, Registration, Education and Disclosure Department for the amendments to be incorporated into the Registration Records.

- Respondent is liable for and shall pay to Claimant \$375.00 to reimburse Claimant for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.

## **FEES**

Pursuant to the Code of Arbitration Procedure (“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:

January 11-14 and 25-28, 2022, postponement requested by the parties = \$ 1,125.00

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Total Postponement Fees = \$ 1,125.00

Pursuant to the parties’ Settlement Agreement, the Panel has assessed the total postponement fees to Respondent.

### **Last-Minute Cancellation Fees**

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

January 11-14 and 25-28, 2022, cancellation requested by the parties = \$ 1,800.00

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Total Last-Minute Cancellation Fees = \$ 1,800.00

Pursuant to the parties’ Settlement Agreement, the Panel has assessed the total last-minute cancellation fees to Respondent.

### **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:

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$ 2,250.00
Pre-Hearing Conferences: March 5, 2021	1 session
January 12, 2022	1 session

Two (2) hearing session on expungement request @ \$1,125.00/session	= \$ 2,250.00
Hearing: January 26, 2022	2 sessions

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Total Hearing Session Fees	= \$ 4,500.00
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Pursuant to the parties' Settlement Agreement, the Panel has assessed the total hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Lorrie E Whitfield	-	Public Arbitrator, Presiding Chairperson
Barry Allen Wells	-	Public Arbitrator
Jaclyn Senior Brown	-	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**

***Lorrie E Whitfield***

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Lorrie E Whitfield  
Public Arbitrator, Presiding Chairperson

***02/09/2022***

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

***Barry Allen Wells***

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Barry Allen Wells  
Public Arbitrator

***02/11/2022***

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

***Jaclyn Senior Brown***

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Jaclyn Senior Brown  
Non-Public Arbitrator

***02/10/2022***

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

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February 14, 2022

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