

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Richard Boyer
Richard Boyer, on Behalf of His IRA

Case Number: 20-04082

vs.

Respondent

Voya Financial Advisors, Inc.

Hearing Site: Charlotte, North Carolina

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: Customers vs. Member

REPRESENTATION OF PARTIES

Claimants Richard Boyer, Individually and on Behalf of His IRA, appeared pro se.

For Respondent Voya Financial Advisors, Inc.: Martin S. Schexnayder, Esq., Winget, Spadafora Schwartzberg, LLP, Houston, Texas.

CASE INFORMATION

Statement of Claim filed on or about: December 15, 2020.

Richard Boyer signed the Submission Agreement: December 15, 2020.

Richard Boyer, on Behalf of His IRA signed the Submission Agreement: December 15, 2020.

Statement of Answer filed by Respondent on or about: February 25, 2021.

Voya Financial Advisors, Inc. signed the Submission Agreement: February 25, 2021.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: negligence; professional negligence; violations of law; unsuitable recommendations; negligent supervision; breach of contract; breach of fiduciary duty; and breach of securities industry rules and regulations. The causes of action relate to the suitability of certain investments.

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, Claimants requested: general and compensatory damages in an amount of \$85,000.00; lost opportunity costs; rescission of the improper investments; cost of proceedings; punitive damages in an amount according to proof; interest at the legal rate on all sums recovered; attorneys' fees and costs; and such other and further relief as the Arbitrator deems just and appropriate.

In the Statement of Answer, Respondent requested: the Arbitrator dismiss all of the claims and causes of action asserted against it in Claimants' Statement of Claim; reasonable attorneys' fees and costs incurred in defending this case; and for such other and further relief, whether in law or in equity, to which Respondent may be justly entitled.

OTHER ISSUES CONSIDERED AND DECIDED

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

After the withdrawal of Claimants' Counsel on January 5, 2022, Claimants were unresponsive. On January 19, 2022, the Arbitrator issued an Order postponing the evidentiary hearings scheduled from January 25, 2022 through January 27, 2022, and directing Claimants to file notice of their intent to proceed with the case by February 18, 2022 or the case would be dismissed. On February 22, 2022, after receiving no response from Claimants, the Arbitrator issued an Order dismissing the case without prejudice.

AWARD

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

1. Claimants' claims are dismissed in their entirety without prejudice.

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	= \$	975.00
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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 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	= \$	1,100.00
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Member Process Fee = \$ 2,250.00

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 with a single Arbitrator @ \$450.00/session = \$ 450.00
Pre-Hearing Conference: April 12, 2021 1 session

Total Hearing Session Fees = \$ 450.00

The Arbitrator has assessed \$225.00 of the hearing session fees jointly and severally to Claimants.

The Arbitrator has assessed \$225.00 of the hearing session fees to Respondent.

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

ARBITRATOR

Frank V. Tutone

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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

Frank V. Tutone

Frank V. Tutone
Sole Public Arbitrator

02/23/2022

Signature Date

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February 23, 2022

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