

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
France David

Case Number: 21-00459

vs.

Respondent
Vanguard Marketing Corporation

Hearing Site: Augusta, Maine

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: Customer vs. Member

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant France David: Yves David, Quebec, Canada.

For Respondent Vanguard Marketing Corporation: Bryan Ward, Esq., Holcomb + Ward, LLP, Atlanta, Georgia.

CASE INFORMATION

Amended Statement of Claim filed on or about: March 11, 2021.

Second Amended Statement of Claim filed on or about: June 1, 2021.

Third Amended Statement of Claim filed on or about: June 14, 2021.

France David signed the Submission Agreement: March 10, 2021.

Statement of Answer filed by Respondent on or about: May 18, 2021.

Answer to Third Amended Statement of Claim filed by Respondent on or about: July 2, 2021.

Vanguard Marketing Corporation signed the Submission Agreement: May 21, 2021.

CASE SUMMARY

In the Third Amended Statement of Claim, Claimant asserted the following causes of action: mismanagement; willful obstruction; manipulation; misrepresentation; omissions; and violating laws. The causes of action relate to the mismanaging of pension installment payments.

Unless specifically admitted in the Answer to the Third Amended Statement of Claim, Respondent denied the allegations made in the Third Amended Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Amended Statement of Claim and Second Amended Statement of Claim, Claimant requested: compensatory damages in the amount of \$233,000.00 and \$566,000.00 in punitive damages.

In the Third Amended Statement of Claim, Claimant requested: compensatory damages in the amount of \$151,000.00 and \$320,000.00 in punitive damages.

In the Statement of Answer, Respondent requested that Claimant's claims be denied and assess all FINRA fees and costs against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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

A Statement of Claim was filed on February 19, 2021. It was not served on Respondent and not considered by the Panel.

On August 11, 2021, Respondent filed a Motion to Dismiss pursuant to Rule 12504 of the Code of Arbitration Procedure ("Code"). On August 25, 2021, Claimant filed an Opposition to the Motion to Dismiss and Respondent filed a Reply in support on September 1, 2021. On September 24, 2021, the Panel heard oral arguments on the Motion to Dismiss. On September 24, 2021, the Panel granted the Motion to Dismiss on the grounds that:

Respondent was not associated with the account, securities and/or conduct in question and Claimant brought the claim against the wrong party.

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

AWARD

After considering the pleadings, the Motion to Dismiss and all responses thereto, and the arguments presented during the recorded pre-hearing conference, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims are dismissed with prejudice pursuant to Rule 12504 of the Code.

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 = \$ 1,725.00

**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 = \$ 2,475.00
Member Process Fee = \$ 5,075.00

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 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: July 27, 2021 1 session
September 24, 2021 1 session

Total Hearing Session Fees = \$ 2,250.00

The Panel has assessed \$1,125.00 of the hearing session fees to Claimant.

The Panel has assessed \$1,125.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

John James McGovern, Jr.	-	Public Arbitrator, Presiding Chairperson
Ronald L. Cheney	-	Public Arbitrator
Patrick W. McKeon	-	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

John James McGovern, Jr.

John James McGovern, Jr.
Public Arbitrator, Presiding Chairperson

09/29/2021

Signature Date

Ronald L. Cheney

Ronald L. Cheney
Public Arbitrator

09/29/2021

Signature Date

Patrick W. McKeon

Patrick W. McKeon
Non-Public Arbitrator

09/29/2021

Signature Date

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September 30, 2021

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