

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Scott Lee Brady

Case Number: 20-02375

vs.

Respondent
Voya Financial Advisors, Inc.

Hearing Site: Portland, Oregon

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 partially by videoconference.

REPRESENTATION OF PARTIES

For Claimant Scott Lee Brady (“Claimant”): Melinda Jane Steuer, Esq., The Law Offices of Melinda Jane Steuer, Sacramento, California.

For Respondent Voya Financial Advisors, Inc. (“Respondent”): Derek C. Anderson, Esq., Winget, Spadafora & Schwartzberg, LLP, Boulder, Colorado.

CASE INFORMATION

Statement of Claim filed on or about: July 28, 2020.
Amended Statement of Claim filed on or about: August 24, 2021
Claimant signed the Submission Agreement: July 23, 2020.

Statement of Answer filed by Respondent on or about: October 22, 2020.
Answer to Amended Statement of Claim filed by Respondent on or about: September 9, 2021.
Respondent signed the Submission Agreement: October 22, 2020.

CASE SUMMARY

In the Statement of Claim, as amended, Claimant asserted the following causes of action: violation of O.R.S. § 659A.199 – retaliation; wrongful discharge; fraud by concealment; fraud – false promise; breach of fiduciary duty; negligence; breach of written contract; breach of the implied covenant of good faith and fair dealing; defamation; violation of O.R.S. § 659.805 – blacklisting; and intentional interference with economic relations. In addition, Claimant asserted

a claim alleging Claimant's Form U5 filed by Respondent, as part of registration records maintained by the Central Registration Depository ("CRD"), is false and defamatory in nature.

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

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested:

1. Compensatory damages in a sum according to proof;
2. An order directing the expungement of the false and defamatory comment on Claimant's Form U5;
3. Punitive damages in a sum sufficient to serve as an example to deter and punish Respondent;
4. Reasonable attorneys' fees;
5. Costs; and
6. Such other and further relief as this Panel may deem just and proper.

In the Statement of Answer, as amended, Respondent requested:

1. The Amended Statement of Claim be dismissed in its entirety;
2. Respondent be awarded costs and expenses of this arbitration, including forum fees and reasonable attorneys' fees; and
3. Such other and further relief as is just and proper.

At the hearing, Claimant requested total damages in the amount of \$2,312,470.78 to \$2,568,601.78.

OTHER ISSUES CONSIDERED AND DECIDED

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

On July 26, 2021, Claimant filed a motion to amend the Statement of Claim ("Motion to Amend Statement of Claim"). On August 5, 2021, Respondent filed its opposition to the Motion to Amend Statement of Claim. On August 10, 2021, Claimant filed a reply in support of his motion. By order dated August 20, 2021, the Panel granted Claimant's Motion to Amend 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. Claimant's claims are denied in their entirety.

2. Claimant's request for expungement of his Form U5 from registration records maintained by the CRD is denied.
3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and attorneys' fees, are denied.

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(s) that employed the associated person(s) at the time of the event(s) 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:

October 18-22, 2021, postponement requested by Parties	=\$ 1,125.00
--	--------------

Total Postponement Fees	=\$ 1,125.00
-------------------------	--------------

The Panel has assessed the total postponement fees to Claimant.

Discovery-Related Motion Fees

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

Five (5) decisions on discovery-related motions on the papers with one (1) Arbitrator @ \$200.00/decision	=\$ 1,000.00
---	--------------

Three (3) decisions on discovery-related motions on the papers with the Panel @ \$600.00/decision	=\$ 1,800.00
---	--------------

Claimant submitted five (5) discovery-related motions
Respondent submitted three (3) discovery-related motions

Total Discovery-Related Motion Fees	=\$ 2,800.00
-------------------------------------	--------------

The Panel has assessed \$1,500.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$1,300.00 of the discovery-related motion 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 Arbitrator(s), including a pre-hearing conference with the Arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ \$1,125.00/session	= \$	1,125.00
Pre-Hearing Conference: January 21, 2021	1 session	
Twenty-two (22) hearing sessions @ \$1,125.00/session	= \$	24,750.00
Hearings:		
January 24, 2022	2 sessions	
January 25, 2022	3 sessions	
January 26, 2022	3 sessions	
January 27, 2022	3 sessions	
January 28, 2022	1 session	
March 14, 2022	2 sessions	
March 15, 2022	3 sessions	
March 16, 2022	3 sessions	
March 17, 2022	2 sessions	

Total Hearing Session Fees = \$ 25,875.00

The Panel has assessed \$12,937.50 of the hearing session fees to Claimant.

The Panel has assessed \$12,937.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Elwood C. Avery	-	Public Arbitrator, Presiding Chairperson
Philip Alan Johnson	-	Public Arbitrator
James H. Fehlberg	-	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

Elwood C. Avery

Elwood C. Avery
Public Arbitrator, Presiding Chairperson

04/06/2022

Signature Date

Philip Alan Johnson

Philip Alan Johnson
Public Arbitrator

04/07/2022

Signature Date

James H. Fehlberg

James H. Fehlberg
Non-Public Arbitrator

04/07/2022

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.

April 08, 2022

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