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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA

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9 Barbara Borchers, et al.,

No. cv-08-2138-PHX-ROS

10 Plaintiffs,

**ORDER**

11 vs.

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13 The Vanguard Group, Inc., et al.,

14 Defendants.

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17 Pending before the Court is Defendant Vanguard Marketing Corporation (“VMC”)’s  
18 Motion to Dismiss for Failure to State a Claim (Doc. 7). For the reasons stated herein,  
19 Defendant’s Motion will be denied.

20 BACKGROUND

21 Plaintiff Barbara Bowers is trustee of the Olson Living Trust and has power of  
22 attorney authorizing her to deal with, manage and control the financial affairs of her mother,  
23 Betty D. Olson. Plaintiffs opened certain Vanguard Money Market and Brokerage Accounts  
24 with Defendants The Vanguard Group, Inc. and VMC . They allege that Defendants allowed  
25 Betty Olson’s son, Michael Olson, to unlawfully access those accounts and paid out forged  
26 drafts and checks in excess of \$100,000. They further allege that Defendants failed to  
27 recredit the accounts as required despite the fact that the forgeries were promptly reported.

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2. Defendants The Vanguard Group, Inc., a foreign corporation, and Vanguard Marketing Corporation, a foreign corporation (hereinafter referred to as “The Vanguard Group”), are corporations that were incorporated in Pennsylvania, and that are authorized to and have in fact been, conducting business in Phoenix, Maricopa County, Arizona, in the form of operating and managing certain money market funds and brokerage accounts.

Plaintiffs’ Complaint then continues to state a number of allegations against “The Vanguard Group.” Plaintiffs’ parenthetical notation appears clear to this Court; “The Vanguard Group” is used collectively to refer to both Defendants. Plaintiffs’ failure to choose a more easily parsed short-form name does not constitute grounds for dismissal of their case.

While it may very well be true that VMC has no involvement in any administration of Plaintiffs’ accounts, that is not a fact to be determined on a motion to dismiss (certainly not on *this* motion to dismiss, which is a mere two pages and provides little in the way of analysis). Defendant has not shown that Plaintiffs have failed to state a claim.

Accordingly,

**IT IS ORDERED** Defendant’s Motion (Doc. 7) is **DENIED**.

DATED this 17th day of July, 2009.

  
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Roslyn O. Silver  
United States District Judge