

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Maria E. Albers

Case Number: 20-03396

vs.

Respondent
MSC-BD, LLC

Hearing Site: St. Louis, Missouri

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 an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Maria E. Albers (“Claimant”): Bruce D. Oakes, Esq., Oakes & Fosher, LLC, St. Louis, Missouri.

For Respondent MSC-BD, LLC (“Respondent”): Christopher D. Seps, Esq., Ulmer & Berne LLP, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: September 30, 2020.
Claimant signed the Submission Agreement: September 30, 2020.

Statement of Answer filed on or about: December 10, 2020.
Respondent the Submission Agreement: December 10, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty, violation of Missouri's Securities Act § 409-5.501 *et al*, common law fraud, breach of contract, negligence/negligent misrepresentation/omission, unjust enrichment, and negligent supervision. The causes of action related to Claimant’s allegations that Respondent, through its agent, made unsuitable investment recommendations that were designed solely to generate maximum commissions, including investments in GPB Capital, a private placement.

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 compensatory damages of approximately \$200,000.00, attorneys' fees, punitive damages, pre-judgment interest, reasonable attorneys' fees and costs, filing and forum fees, and such other and further relief which the Panel deems just and proper under the circumstances.

In the Statement of Answer, Respondent requested that the Panel deny all of the claims; award its costs, expenses, and fees (including attorney's fees) incurred in having to defend this action, and; grant it any other relief that the Panel deems just and proper.

At the hearing, Claimant requested compensatory damages in a range between \$123,666.10-\$165,568.24, costs in the amount of \$8,058.75, forum fees, interest at 9%, attorneys' fees in the amount of 1/3 of the gross recovery, and punitive damages in a multiple of compensatory damages or in an amount which the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

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. Respondent is liable for and shall pay to Claimant the sum of \$160,000.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the rate of 9.0% per annum from the date of service of this Award through and including the date this Award is paid in full.
3. Respondent is liable for and shall pay to Claimant the sum of \$8,058.75 in costs.
4. Respondent is liable for and shall pay to Claimant the sum of \$53,280.00 in attorneys' fees pursuant to Missouri Securities Act § 409.5-509(b)(1) and the contingency fee agreement.
5. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and treble damages, are denied.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee	=\$ 1,425.00
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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(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	=\$ 1,700.00
Member Process Fee	=\$ 3,250.00

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 Arbitrator(s), including a pre-hearing conference with the Arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

Six (6) hearing sessions @ \$1,125.00/session	=\$ 6,750.00
Hearings:	
January 11, 2022	2 sessions
January 12, 2022	2 sessions
January 13, 2022	2 sessions
<hr/> Total Hearing Session Fees	<hr/> =\$ 6,750.00

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

James M. Stern	-	Public Arbitrator, Presiding Chairperson
Ericka Cables	-	Public Arbitrator
Jane Curtman-Schroeder	-	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

James M. Stern

James M. Stern
Public Arbitrator, Presiding Chairperson

01/18/2022

Signature Date

Ericka Cables

Ericka Cables
Public Arbitrator

01/14/2022

Signature Date

Jane Curtman-Schroeder

Jane Curtman-Schroeder
Public Arbitrator

01/14/2022

Signature Date

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January 18, 2022

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