

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Stine Seed Farm, Inc.

Case Number: 18-03572

vs.

Respondent  
D.A. Davidson & Co.

Hearing Site: Des Moines, Iowa

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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 Stine Seed Farm, Inc. (“Claimant”): María Amelia Calaf, Esq., Asra Syed, Esq., and John Saba, Esq., Wittliff Cutter, PLLC, Austin, Texas, and Patricia L. Vannoy, Esq. and J.L. Spray, Esq., Mattson Ricketts Law Firm, Lincoln, Nebraska.

For Respondent D.A. Davidson & Co. (“Respondent”): James K. Langdon, Esq., Dorsey & Whitney LLP, Minneapolis, Minnesota, and Elizabeth A. Lowery, Esq., Freeman Mathis & Gary LLP, Los Angeles, California.

**CASE INFORMATION**

Statement of Claim filed on or about: October 12, 2018.  
Amended Statement of Claim filed on or about: November 19, 2019.  
Claimant signed the Submission Agreement: October 11, 2018.

Statement of Answer filed on or about: January 4, 2019.  
Statement of Answer to Amended Statement of Claim filed on or about: January 8, 2020.  
Respondent signed the Submission Agreement: January 3, 2019.

**CASE SUMMARY**

In the Statement of Claim, as amended, Claimant asserted the following causes of action: excessive mark-ups on trades, breach of contract, fraudulent misrepresentation, negligence,

negligent supervision, violations of the Iowa Securities Act, violations of the Montana Securities Act, and violations of the Colorado Securities Act. Claimant further alleged that Respondent negligently failed to supervise a broker with a record of regulatory violations, who solicited Claimant to buy and sell unsuitable taxable Employment Retirement System (“ERS”) bonds issued by the Commonwealth of Puerto Rico, resulting in excessive brokerage fees.

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 damages, including:

- A. Damages reflecting the amount Claimant overpaid in excess mark-ups and lost profits due to lack of best execution;
- B. Rescission for the ERS bonds purchased at Respondent’s recommendation;
- C. Claimant’s reasonable costs and expenses incurred in this action (including attorneys’ fees) as provided by contract and state law;
- D. Punitive or exemplary damages, as provided under state law, FINRA rules, equity, or any other ground recognized by the Panel;
- E. All hearing and filing fees;
- F. Prejudgment and post-judgment interest of 10% per year as provided by the Montana Securities Act (Mont. Code Ann. §30-10-307(1)) or another rate set by the Panel; and
- G. Such other relief as the Panel may deem just and appropriate.

In the Statement of Answer, as amended, Respondent requested that the Panel dismiss the Statement of Claim, as amended, with prejudice and grant such other relief as it deems just.

At the hearing, Claimant requested compensatory damages of \$19,000,061.00 and punitive damages of \$38,000,122.00.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

On November 19, 2019, Claimant filed a Motion to Amend the Statement of Claim (“Motion to Amend”). On November 21, 2019, Respondent confirmed that it did not oppose Claimant’s Motion to Amend. In an Order dated November 22, 2019, the Panel granted Claimant’s Motion to Amend.

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

### **AWARD**

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

1. Claimant's claims are denied in their entirety.
2. Respondent is liable for and shall pay to Claimant the sum of \$750.00 to reimburse Claimant for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.
3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, 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 = \$ 2,250.00

*\*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 = \$ 4,025.00

Member Process Fee = \$ 7,000.00

#### **Contested Motion for Issuance of Subpoena Fees**

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) decision on a contested motion for the issuance of a subpoena with one Arbitrator @ \$250.00 = \$ 250.00

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Total Contested Motion for Issuance of Subpoena Fees = \$ 250.00

The Panel has assessed the total contested motion for issuance of subpoena 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:

Three (3) pre-hearing sessions with a single Arbitrator @ \$450.00/session = \$ 1,350.00  
Pre-Hearing Conferences: August 22, 2019 1 session  
September 10, 2019 1 session  
August 6, 2021 1 session

Three (3) pre-hearing sessions with the Panel @ \$1,500.00/session	= \$	4,500.00
Pre-Hearing Conferences: March 1, 2019	1 session	
November 9, 2020	1 session	
September 28, 2021	1 session	

Seventeen (17) hearing sessions @ \$1,500.00/session	= \$	25,500.00
Hearings: October 4, 2021	2 sessions	
October 5, 2021	2 sessions	
October 6, 2021	2 sessions	
October 7, 2021	2 sessions	
October 8, 2021	2 sessions	
October 11, 2021	2 sessions	
October 12, 2021	2 sessions	
October 13, 2021	2 sessions	
October 14, 2021	1 session	

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Total Hearing Session Fees	= \$	31,350.00
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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**

Alain Frecon	-	Public Arbitrator, Presiding Chairperson
Brett Coonrod	-	Public Arbitrator
Deborah Kristine Gilg	-	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**

***Alain Frecon***

Alain Frecon  
Public Arbitrator, Presiding Chairperson

**12/07/2021**

Signature Date

***Brett Coonrod***

Brett Coonrod  
Public Arbitrator

**12/07/2021**

Signature Date

***Deborah Kristine Gilg***

Deborah Kristine Gilg  
Public Arbitrator

**12/07/2021**

Signature Date

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December 07, 2021

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