

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

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In the Matter of the Arbitration Between:

Claimants

Darwin Vinson  
Lajane Vinson

Case Number: 19-02237

vs.

Respondent

Money Concepts Capital Corp

Hearing Site: Jackson, Mississippi

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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: Customers vs. Member

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimants Darwin Vinson, and Lajane Vinson (“Claimants”): Jonathan Kurta, Esq. Fitapelli Kurta, New York, New York.\*

For Respondent Money Concepts Capital Corp (“Respondent”): Kathy M. Klock, Esq., Akerman LLP, West Palm Beach, Florida.

\*FINRA recorded the appearance of Claimants’ counsel at the time of filing of the Statement of Claim. Counsel’s representation of Claimants may have ended with the parties’ settlement. Please see the Other Issues Considered and Decided section of this Award for information on whether Claimants’ counsel appeared at the expungement hearing.

**CASE INFORMATION**

Statement of Claim filed on or about: August 8, 2019.

Claimants signed the Submission Agreement: August 8, 2019.

Statement of Answer filed on or about: October 28, 2019

Respondent signed the Submission Agreement: August 21, 2019.

**CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: unsuitability; common law fraud; breach of contract; negligent supervision and breach of fiduciary duty. The causes of action relate to investment in GPB Automotive Portfolio, LP.

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, Claimants requested:

1. Approximately \$100,000.00 in compensatory damages;
2. Attorneys' fees pursuant to the Louisiana Securities Act;
3. Punitive damages;
4. Pre-judgment interest;
5. Costs;
6. Filing and forum fees; and
7. Such other and further relief which this Panel deems just and proper under the circumstances.

In the Statement of Answer, Respondent requested:

1. All claims be denied in their entirety;
2. Attorneys' fees;
3. Forum fees;
4. Other costs and expenses incurred by Respondent in defending this claim; and
5. Expungement of this matter from the Central Registration Depository ("CRD") records of Darren Wayne Oglesby ("Oglesby") pursuant to Rule 2080.

Respondent filed a request for expungement on behalf of Unnamed Party Darren Wayne Oglesby (CRD Number 2480135) of all references to this matter from CRD registration records. Please see the Other Issues Considered and Decided section of this Award for more information.

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

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On March 1, 2021, Claimants filed a notice of voluntary dismissal with prejudice. Therefore, the Arbitrator made no determination with respect to any of the relief requests contained in the Statement of Claim.

On February 25, 2021, Respondent filed a renewed motion for expungement on behalf of Oglesby, to which no response was filed.

The Arbitrator conducted a recorded hearing by videoconference on March 25, 2021, so the parties could present oral argument and evidence on Oglesby's request for expungement.

Claimants did not participate in the expungement hearing.

The Arbitrator reviewed Oglesby's BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

The Arbitrator also reviewed the settlement documentation, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the request for expungement and that Oglesby did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Respondent's Statement of Answer; Respondent's expungement exhibits; Oglesby's BrokerCheck® Report; and Oglesby's testimony.

### **AWARD**

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

The Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2045817) from registration records maintained by the CRD for Unnamed Party Darren Wayne Oglesby (CRD Number 2480135) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Darren Wayne Oglesby must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons:

In the Statement of Claim, Claimants made allegations of unsuitable recommendation of GPB Automotive ("GPB") and of misrepresentation of the safety and liquidity of GPB. The testimony of Oglesby and the documentary evidence show that the investment was suitable for Claimants and that Oglesby did not misrepresent the safety and liquidity of GPB.

Oglesby had extensive meetings with Claimants prior to their investment in GPB. At those meetings, Oglesby obtained information concerning the Claimants' investment

objectives, risk tolerance, income and assets, investment and business experience, liquidity needs, and other information for the account opening documents. He went over a number of investment options, including the pros and cons of each at their second meeting. Claimants selected four, including GPB. Oglesby provided the disclosure documents and private placement memorandums on the investments for Claimants to take home and review. After review, the Claimants met again with Oglesby where GPB was discussed at length. Oglesby discussed the risks again and advised that Claimants should not invest if they were concerned about GPB.

At that meeting, Claimants decided to invest in GPB and signed the documents to open the account, as well as the subscription agreement. The documents signed by Claimants and Oglesby's testimony showed that the investment in GPB was suitable based on investment risk tolerance, investment objective, time horizon, income, net worth, and liquid net worth, and that the Claimants understood the risks of the investment.

Claimants understood the investment in GPB, and they never made any complaints to Oglesby about the investment. Oglesby did not represent that the investment was conservative, nor did he otherwise misrepresent the safety and liquidity of an investment in GPB.

### **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	= \$	975.00
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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 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	= \$	1,100.00
Member Process Fee	= \$	2,250.00

#### **Discovery-Related Motion Fees**

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

Four (4) decisions on discovery-related motions on the papers with one (1) Arbitrator @ \$200.00/decision	= \$	800.00
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Claimants submitted two (2) discovery-related motions  
Respondent submitted two (2) discovery-related motions

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Total Discovery-Related Motion Fees	= \$	800.00
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The Arbitrator has assessed \$200.00 of the discovery-related motion fees jointly and severally to Claimants.

The Arbitrator has assessed \$600.00 of the discovery-related motion fees to Respondent.

**Hearing Session Fees and Assessments**

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, 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: December 9, 2019	1 session	
June 24, 2020	1 session	
February 2, 2021	1 session	
One (1) hearing session on expungement request @ \$450.00/session	= \$	450.00
Hearing: March 25, 2021	1 session	
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Total Hearing Session Fees	= \$	1,800.00

The Arbitrator has assessed \$225.00 of the hearing session fees jointly and severally to Claimants.

The Arbitrator has assessed \$675.00 of the hearing session fees to Respondent, which includes the \$450.00 fees for the expungement hearing.

The Arbitrator has waived \$900.00 of the hearing session fees.

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

**ARBITRATOR**

Gayle B. Carlson

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Sole 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.

**Arbitrator's Signature**

***Gayle B. Carlson***

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Gayle B. Carlson  
Sole Public Arbitrator

**04/14/2021**

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Signature Date

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April 14, 2021

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