

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Steeler Capital LLC

Case Number: 19-02285

vs.

Respondents
Ascendant Alternative Strategies, LLC
Brian Lawrence Frank

Hearing Site: New York, New York

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 and Associated Person

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant Steeler Capital LLC: Lawrence V. Carra, Esq., Mineola, New York*.

For Respondents Ascendant Alternative Strategies, LLC, and Brian Lawrence Frank: K. B. Battaglini, Esq., Strong Pipkin Bissell & Ledyard, L.L.P., Houston, Texas.

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

CASE INFORMATION

Statement of Claim filed on or about: August 13, 2019.

Steeler Capital LLC signed the Submission Agreement: August 13, 2019.

Statement of Answer filed by Respondents on or about: October 3, 2019.

Ascendant Alternative Strategies, LLC signed the Submission Agreement: September 13, 2019.

Brian Lawrence Frank signed the Submission Agreement: September 12, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty; unsuitability; failure to perform due diligence; failure to supervise; misrepresentation; and providing false and misleading information. The causes of action relate to GPB Holdings II LP.

Unless specifically admitted in the Statement of Answer, Respondents 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 in the amount \$250,000.00; attorney's fees; costs and interest.

In the Statement of Answer, Respondents requested an award dismissing Claimant's claims; costs; and expunging this customer dispute because the claims, allegations or information are false.

OTHER ISSUES CONSIDERED AND DECIDED

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

On April 8, 2021, Claimant filed a notice of dismissal. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On May 11, 2021, Respondent Brian Lawrence Frank filed a Motion for Expungement to which no response was filed.

The Panel conducted a recorded, telephonic hearing on August 5, 2021, so the parties could present oral argument and evidence on Brian Lawrence Frank's request for expungement.

Claimant and counsel did not participate in the expungement hearing.

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

AWARD

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

1. Respondent Brian Lawrence Frank's request for expungement of the above-captioned arbitration (Occurrence Number 2045838) from his registration records maintained by the CRD is denied.
2. Any and all claims for relief not specifically addressed herein 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 = \$ 1,425.00

**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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent Ascendant Alternative Strategies, LLC is assessed the following:

Member Surcharge = \$ 1,700.00

Member Process Fee = \$ 3,250.00

Late Pre-Hearing Cancellation Fees

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

October 20, 2020, cancellation requested by the parties = \$ 300.00

Total Late Pre-Hearing Cancellation Fees = \$ 300.00

The Panel has assessed \$150.00 of the late pre-hearing cancellation fees to Claimant.

The Panel has assessed \$150.00 of the late pre-hearing cancellation fees jointly and severally to Respondents.

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

Three (3) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 3,375.00

Pre-Hearing Conferences: December 3, 2019 1 session

April 1, 2020 1 session

April 1, 2021 1 session

One (1) hearing session on expungement request @ \$1,125.00/session = \$ 1,125.00

Hearing: August 5, 2021 1 session

Total Hearing Session Fees = \$ 4,500.00

The Panel has assessed \$1,687.50 of the hearing session fees to Claimant.

The Panel has assessed \$1,687.50 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed the expungement hearing session fees of \$1,125.00 to Respondent Brian Lawrence Frank.

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

ARBITRATION PANEL

Steven Gary Leventhal	-	Public Arbitrator, Presiding Chairperson
Leslie Conason	-	Public Arbitrator
Philip M. Mandel	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Steven Gary Leventhal

Steven Gary Leventhal
Public Arbitrator, Presiding Chairperson

08/09/2021

Signature Date

Leslie Conason

Leslie Conason
Public Arbitrator

08/09/2021

Signature Date

Philip M. Mandel

Philip M. Mandel
Non-Public Arbitrator

08/09/2021

Signature Date

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August 10, 2021

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