

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

The Ashraf F. Banoub Trust DTD 3/16/16

Case Number: 19-03728

vs.

Respondent

McDonald Partners, LLC

Hearing Site: Cleveland, Ohio

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 The Ashraf F. Banoub Trust DTD 3/16/16 (“Claimant”): Courtney M. Werning, Esq., Meyer Wilson Co., LPA, Columbus, Ohio.*

For Respondent McDonald Partners, LLC (“Respondent”): Michael A. Gross, Esq., Ulmer & Berne LLP, Boca Raton, Florida and Michael J. Charlillo, Esq., Ulmer & Berne LLP, Cleveland, Ohio.

*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: December 18, 2019.

Claimant signed the Submission Agreement: December 17, 2019.

Statement of Answer filed on or about: February 27, 2020.

Respondent signed the Submission Agreement: January 7, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: negligence, breach of fiduciary duties, violations of the Ohio Securities Act, breach of contract, and respondeat superior. The causes of action related to Claimant's allegation that Respondent failed to do proper due diligence before recommending and selling GPB Holdings II, LP interests to Claimant. Further, Claimant alleged that GPB Holdings II, LP was part of a Ponzi scheme and Respondent knew or should have known that it was fraudulent.

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: actual damages in an amount reasonably believed to be in excess of \$100,000.00; disgorgement of commissions/fees related to Claimant's purchase of the investment at issue; rescission of the investment at issue, whereby Claimant is placed in the position he was in before the investment at issue was purchased; pre- and post-judgment interest at the legal rate; attorneys' fees; costs of arbitration, including FINRA filing fees, expert witness fees, arbitrator fees, and all forum fees and expenses; punitive damages; and such other and any further relief as the Panel deems just, proper, and equitable.

In the Statement of Answer, Respondent requested that all claims against it be dismissed, that all FINRA fees be assessed to Claimant, and that all references to this matter be expunged from the registration records of Unnamed Party Rita Mansour ("Mansour") maintained by the Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

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

On March 16, 2021, Claimant dismissed all claims against Respondent with prejudice and noted that Respondent requested that the matter remain open to seek expungement.

On March 24, 2021, Respondent filed a Motion for Expungement on behalf of Unnamed Party Mansour, to which no response was filed.

The Panel conducted a recorded hearing by videoconference on June 24, 2021, so the parties could present oral argument and evidence on Respondent's request for expungement on behalf of Mansour.

Neither Claimant nor Claimant's counsel participated in the expungement hearing.

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

The Panel 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 Panel noted that the settlement was not conditioned on any party to the settlement not opposing the request for expungement and that Mansour did not contribute to the settlement amount.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Mansour's testimony, Respondent's exhibits, and Mansour's BrokerCheck® Report.

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. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2059111) from registration records maintained by the CRD for Unnamed Party Rita Mansour (CRD Number 1968418) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Rita Mansour 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 Panel has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

The Panel has made the above Rule 2080 finding based on the following reasons:

Mansour's testimony and the preponderance of the evidence presented at the hearing established that the investment was suitable for Claimant given his experience, financial profile, and accredited investor classification. That there was sufficient due diligence and disclosure was established by evidence of Mansour's visit to the office of the investment's manager, research, the Due Diligence Report completed by a third-party and provided by the investment's manager, Respondent's compliance review/approval prior to Claimant's investment, and email communications with Claimant.

2. 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, 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(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

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

March 9-12, 2021, postponement requested jointly by the parties = \$ 1,125.00

Total Postponement Fees = \$ 1,125.00

The Panel has assessed \$562.50 of the postponement fees to Claimant.

The Panel has assessed \$562.50 of the postponement 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:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session = \$ 450.00
Pre-Hearing Conference: January 19, 2021 1 session

Three (3) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 3,375.00
Pre-Hearing Conferences: April 27, 2020 1 session
January 28, 2021 1 session
May 6, 2021 1 session

One (1) hearing session on expungement request @ \$1,125.00/session = \$ 1,125.00
Hearing: June 24, 2021 1 session

Total Hearing Session Fees = \$ 4,950.00

The Panel has assessed \$1,912.50 of the hearing session fees to Claimant.

The Panel has assessed \$3,037.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Robert J. Scafuri	-	Public Arbitrator, Presiding Chairperson
Richard S. Hines	-	Public Arbitrator
David Arnold	-	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

Robert J. Scafuri

Robert J. Scafuri
Public Arbitrator, Presiding Chairperson

07/16/2021

Signature Date

Richard S. Hines

Richard S. Hines
Public Arbitrator

07/18/2021

Signature Date

David Arnold

David Arnold
Public Arbitrator

07/16/2021

Signature Date

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July 19, 2021

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