

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Laurie E. LaRoche

Case Number: 20-00687

vs.

Respondents
Jon Paul Cirelli
Concorde Investment Services, LLC
James Dwight McPherson
Sandlapper Securities, LLC
Fortitude Investment Group, LLC

Hearing Site: Boca Raton, Florida

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. Members, Associated Persons, and Non-Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Laurie E. LaRoche: Sam B. Edwards, Esq. and David W. Miller, Esq., Shepherd Smith Edwards & Kantas LLP, Houston, Texas.

For Respondents Jon Paul Cirelli (“Cirelli”) and Concorde Investment Services, LLC (“CIS”): Ryan Friel, Esq., Marshall, Dennehey, Warner, Coleman & Goggin, Philadelphia, Pennsylvania.

James Dwight McPherson (“McPherson”): Ryan Friel, Esq., Marshall, Dennehey, Warner, Coleman & Goggin, Philadelphia, Pennsylvania until on or about April 7, 2021; thereafter, Respondent McPherson appeared pro-se.

For Respondent Sandlapper Securities, LLC (“SLS”): Joseph A. Ingrisano, Esq. and David R. Fox, Esq., Kutak Rock LLP, Washington, DC until on or about January 19, 2021; thereafter, Respondent SLS did not appear.

Respondent Fortitude Investment Group, LLC (“FIG”) did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: February 28, 2020.

Laurie E. LaRoche signed the Submission Agreement: February 27, 2020.

Statement of Answer filed by Respondents Cirelli, CIS and McPherson on or about: May 15, 2020.

Jon Paul Cirelli signed the Submission Agreement: May 21, 2020.

Concorde Investment Services, LLC signed the Submission Agreement: May 22, 2020.

James Dwight McPherson signed the Submission Agreement: July 10, 2020.

Statement of Answer filed by Respondent SLS on or about: May 7, 2020.

Sandlapper Securities, LLC signed the Submission Agreement: May 21, 2020.

Fortitude Investment Group, LLC did file a Statement of Answer or sign the Submission Agreement.

Amended Statement of Answer filed by Respondents Cirelli, CIS and McPherson on or about July 31, 2020.

[Additional] Statement of Answer filed by [Pro Se] Respondent McPherson on or about: April 12, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract and warranties, and promissory estoppel; unfair trade and deceptive practices; violation of state securities statutes, including the Florida Securities and Investor Protection Act; violation of state fraud statutes; claims under common law; and, joint and several liability and vicarious liability. The causes of action relate to the purchase of various alternative investments in Claimant's account, including GPB Automotive Portfolio, Northstar Healthcare, and Hospitality Investors Trust, Inc.

Unless specifically admitted in their Statement of Answer, as amended, Respondents Cirelli, CIS and McPherson denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in its Statement of Answer, Respondent SLS denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In his [Additional] Statement of Answer, Respondent McPherson responded to the allegations against him in this case.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested an award in the amount of between \$100,000.00 and \$500,000.00 comprised of: losses in Claimant's accounts exceeding \$100,000.00; lost opportunities; rescission; statutory damages; punitive damages; pre and post-award interest at

the highest rate allowed by law from the date of investment until the date of judgment and/or until such sums are paid; costs of these proceedings and for recovery of damages, including legal fees, including while on appeal, if any, and for collection; and any and all other relief deemed appropriate by the Panel.

In their Statement of Answer, as amended, Respondents Cirelli, CIS and McPherson requested: dismissal of Claimant's claims in their entirety; attorneys' fees; and, a recommendation of expungement of all references to this matter from Respondents Cirelli and McPherson's Central Registration Depository ("CRD") records.

In its Statement of Answer, Respondent SLS requested dismissal of all claims in their entirety.

In his [Additional] Statement of Answer, Respondent McPherson did not delineate a relief request.

During closing argument, Claimant requested: damages of \$100,000.00; interest in the amount of \$18,667.00; litigation costs in the amount of \$1,500.00; FINRA fees in the amount of \$1,450.00; and legal fees in the amount of \$48,647.00, for a total award of \$170,264.00.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent FIG is not a member or associated person of FINRA and did not voluntarily submit to arbitration. Therefore, the Panel made no determination with respect to the claims against Respondent FIG.

FINRA rules require parties to use the online DR Portal on a mandatory basis (except pro se investors). Failure to register for the DR Portal will prevent the submission of pleadings, selection of arbitrators, and receipt of notification relating to case information and deadlines. Counsel for Respondent SLS registered for the DR Portal and participated in these proceedings utilizing the DR Portal until January 19, 2021, the date of their withdrawal as counsel of record for Respondent SLS. At such time, FINRA sent Respondent SLS, via email, an invitation to register for the DR Portal in order to continue receiving notifications relating to this case and to participate virtually in this proceeding. Thereafter, Respondent SLS did not register for the DR Portal and did not appear at the virtual evidentiary hearing. However, the Panel found that Respondent SLS had due notice of the hearing and that arbitration of the matter would proceed without Respondent SLS present, in accordance with the Code of Arbitration Procedure ("Code"). Additionally, having signed the Submission Agreement and filed an Answer, Respondent SLS is bound by the Panel's ruling and determination.

On or about July 24, 2020, Respondents Cirelli, CIS and McPherson filed a Motion to Amend their Statement of Answer to correct some factual inaccuracies contained in their initial Statement of Answer, to which no opposition was filed. On or about July 31, 2020, the Panel issued an Order granting the Motion.

On or about December 31, 2020, Claimant filed a notice of dismissal, without prejudice, of all claims asserted against Respondent Cirelli, to which Respondent Cirelli agreed. Therefore, the

Panel made no determinations with respect to any of the relief requests contained in the Statement of Claim pertaining to Respondent Cirelli. On or about April 7, 2021, Claimant modified the dismissal to be with prejudice. Inasmuch as Respondent Cirelli did not reiterate his request for expungement or appear at the final hearing, the Panel deemed Respondent Cirelli's request for expungement to be withdrawn.

On or about April 7, 2021, Claimant filed a notice of settlement and dismissal with prejudice regarding all claims asserted against Respondent CIS. Therefore, the Panel made no determinations with respect to any of the relief requests contained in the Statement of Claim pertaining to Respondent CIS.

On or about April 7, 2021, Claimant filed a notice of settlement of all claims asserted against Respondent McPherson regarding the time period during which Respondent McPherson was employed by Respondent CIS.

On April 13, 2021, the arbitration proceeded with respect to the claims asserted by Claimant against Respondents SLS and McPherson regarding the time period during which Respondent McPherson was employed by Respondent SLS.

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. Respondents SLS and McPherson are jointly and severally liable for violation of Section 517.211 of the Florida Securities and Investor Protection Act.
2. Respondent SLS is solely liable for and shall pay to Claimant compensatory damages in the amount of \$80,000.00, plus interest at the Florida statutory rate accruing from the date of purchase of shares of GPB Automobile Portfolio in Claimant's account when her account was with Respondent SLS until payment of the Award in full.
3. Respondents SLS and McPherson are jointly and severally liable for and shall pay to Claimant additional compensatory damages in the amount of \$20,000.00, plus interest at the Florida statutory rate accruing from the date of purchase of shares of GPB Automobile Portfolio in Claimant's account when her account was with Respondent SLS until payment of the Award in full.
4. Pursuant to Section 517.301 of the Florida Statutes, Respondent SLS is solely liable for and shall pay to Claimant attorneys' fees in the amount of \$20,000.00.
5. Pursuant to Section 517.301, Respondents SLS and McPherson are jointly and severally liable for and shall pay to Claimant additional attorneys' fees in the amount of \$5,000.00.
6. Respondent McPherson's (CRD Number 5918462) request for expungement of the above-captioned arbitration (Occurrence Number 2065087) from his registration records maintained by the CRD is denied.

7. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, 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 parties, Respondents CIS and SLS are each assessed the following:

Member Surcharge = \$ 1,900.00

Member Process Fee = \$ 3,750.00

Discovery-Related Motion Fees

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

Two (2) decisions on discovery-related motions on the papers with one (1) Arbitrator @ \$200.00/decision = \$ 400.00

Claimant submitted two (2) discovery-related motions

Total Discovery-Related Motion Fees = \$ 400.00

The Panel has assessed \$100.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$100.00 of the discovery-related motion fees jointly and severally to Respondents CIS and McPherson

The Panel has assessed the \$200.00 of the discovery-related motion fees to Respondent SLS.

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 the Panel @ \$1,125.00/session = \$ 1,125.00
Pre-Hearing Conference: July 6, 2020 1 session

Two (2) hearing sessions @ \$1,125.00/session = \$ 2,250.00

Hearing: April 13, 2021 2 sessions

Total Hearing Session Fees = \$ 3,375.00

The Panel has assessed \$562.50 of the total hearing session fees to Claimant.

The Panel has assessed \$562.50 of the total hearing session fees jointly and severally to Respondents CIS, Cirelli, McPherson and SLS.

The Panel has assessed \$1,800.00 of the total hearing session fees solely to Respondent SLS.

The Panel has assessed \$450.00 of the total hearing session fees jointly and severally to Respondents SLS and McPherson.

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

ARBITRATION PANEL

Steven Ira Weinberger	-	Public Arbitrator, Presiding Chairperson
Randy Atlas	-	Public Arbitrator
Margo Leslie Green	-	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

Steven Ira Weinberger

Steven Ira Weinberger
Public Arbitrator, Presiding Chairperson

04/21/2021

Signature Date

Randy Atlas

Randy Atlas
Public Arbitrator

04/20/2021

Signature Date

Margo Leslie Green

Margo Leslie Green
Public Arbitrator

04/20/2021

Signature Date

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April 21, 2021

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