

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

James Meeker
James Meeker Discretionary Trust
Dorothy Lorentzen Marital Trust

Case Number: 20-01385

vs.

Respondents

HighTower Securities, LLC
Steven Michael Ayer
Jeffrey Gaither Sullivan
HighTower Advisors, LLC

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: Customers vs. Member, Associated Persons, and Non-Member

This case was decided by a majority-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants James Meeker, James Meeker Discretionary Trust, and Dorothy Lorentzen Marital Trust: Judd R. Spray, Esq., Law Office of Judd R. Spray, Millbrook, New York.

For Respondents HighTower Securities, LLC, Steven Michael Ayer (“Ayer”), Jeffrey Gaither Sullivan (“Sullivan”), and HighTower Advisors, LLC: Stephen G. Topetzes, Esq., K&L Gates LLP, Washington, District of Columbia.

CASE INFORMATION

Statement of Claim filed on or about: June 29, 2020.

Amended Statement of Claim filed on or about: November 10, 2020.

James Meeker signed the Submission Agreement: July 7, 2020.

James Meeker Discretionary Trust signed the Submission Agreement: July 7, 2020.

Dorothy Lorentzen Marital Trust signed the Submission Agreement: July 7, 2020.

Joint Statement of Answer filed by Respondents HighTower Securities, LLC, Ayer, and Sullivan on or about September 24, 2020.

Joint Statement of Answer to Amended Statement of Claim filed by Respondents on or about December 10, 2020.

HighTower Securities, LLC signed the Submission Agreement: September 24, 2020.

Steven Michael Ayer signed the Submission Agreement: September 23, 2020.

Jeffrey Gaither Sullivan signed the Submission Agreement: September 24, 2020.

HighTower Advisors, LLC signed the Submission Agreement: December 10, 2020.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: violation of FINRA Rule 2111, violation of FINRA Rule 3110, breach of fiduciary duty, and negligence. The causes of action relate to investments in GPB Capital Limited Partnerships.

Unless specifically admitted in the Statement of Answer, Respondents HighTower Securities, LLC, Ayer, and Sullivan denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Amended Statement of Claim, Claimants asserted the following causes of action: unsuitability, breach of fiduciary duty, breach of contract, gross negligence, and negligence. The causes of action relate to investments GPB Capital Limited Partnerships.

Unless specifically admitted in the Statement of Answer to the Amended Statement of Claim, Respondents denied the allegations made in the Amended Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim and Amended Statement of Claim, Claimants requested compensatory damages in the amount of \$900,000.00; pre-award interest and post-award interest; attorneys' fees; costs and expenses; and such other and further relief as the Panel may deem just and proper.

In the Statement of Answer, Respondents HighTower Securities, LLC, Ayer, and Sullivan requested that the claims asserted by Claimants be dismissed in their entirety, and for costs, including attorneys' fees and related expenses, incurred in responding to the Statement of Claim.

In the Statement of Answer to the Amended Statement of Claim, Respondents requested that the claims asserted by Claimants in the Amended Statement of Claim be denied in their entirety, and for costs, including attorneys' fees and related expenses, incurred in responding to the Amended Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

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

A Statement of Claim was filed on May 4, 2020 and another Statement of Claim was filed on May 14, 2020. The Statements of Claim filed on May 4, 2020 and May 14, 2020 were not served on Respondents or considered by the Panel.

On November 10, 2020, Claimants filed a Motion to Amend the Statement of Claim to which no response was received. By Order dated November 30, 2020, the Panel granted Claimants' Motion to Amend the Statement of Claim. The Amended Statement of Claim added HighTower Advisors, LLC as a Respondent.

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. Claimants' claims are denied in their entirety.
2. Respondents are jointly and severally liable for and shall pay to Claimants \$425.00 to reimburse Claimants for the non-refundable filing fee previously paid to FINRA Dispute Resolution Services.
3. Any and all claims for relief not specifically addressed herein, including any requests for attorneys' fees, 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	= \$ 1,725.00
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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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a Respondent, Respondent Hightower Securities, LLC is assessed the following:

Member Surcharge	= \$ 2,475.00
Member Process Fee	= \$ 5,075.00

Discovery-Related Motion Fees

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

One (1) decision on a discovery-related motion on the papers with the Panel @ \$600.00/decision = \$ 600.00

Claimants submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 600.00

The Panel has assessed the total discovery-related motion 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:

One (1) pre-hearing session with the Panel @ \$1,300.00/session = \$ 1,300.00
Pre-Hearing Conference: November 30, 2020 1 session

Thirteen (13) hearing sessions @ \$1,300.00/session = \$ 16,900.00
Hearings: April 19, 2021 2 sessions
April 20, 2021 2 sessions
April 21, 2021 2 sessions
April 22, 2021 2 sessions
May 26, 2021 2 sessions
May 27, 2021 2 sessions
June 4, 2021 1 session

Total Hearing Session Fees = \$ 18,200.00

The Panel has assessed the total hearing session fees jointly and severally to Respondents.

ARBITRATION PANEL

Paul Bennett Marrow	-	Public Arbitrator, Presiding Chairperson
Brian John Gallagher	-	Public Arbitrator
Sandra D. Parker	-	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

Paul Bennett Marrow

Paul Bennett Marrow
Public Arbitrator, Presiding Chairperson

07/16/2021

Signature Date

Brian John Gallagher

Brian John Gallagher
Public Arbitrator

07/15/2021

Signature Date

Sandra D. Parker

Sandra D. Parker
Non-Public Arbitrator

07/16/2021

Signature Date

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July 16, 2021

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