

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Mark W. Just, on behalf of his IRA

Case Number: 20-02343

vs.

Respondent

Center Street Securities, Inc.

Hearing Site: Nashville, Tennessee

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.

REPRESENTATION OF PARTIES

For Claimant Mark W. Just, on behalf of his IRA: Kirk G. Smith, Esq., Shepherd Smith Edwards & Kantas LLP, Houston, Texas.

For Respondent Center Street Securities, Inc.: Gregg J. Breitbart, Esq. and Zachary Hayes-Macaluso, Esq., Kaufman Dolowich & Voluck, LLP, Fort Lauderdale, Florida.

*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: July 23, 2020.

Mark W. Just signed the Submission Agreement on behalf of his IRA: July 15, 2020.

Statement of Answer filed by Respondent on or about: September 15, 2020.

Center Street Securities, Inc. signed the Submission Agreement: September 15, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract and warranties; promissory estoppel; violation of fraud and state securities statutes, and the

deceptive trade practices statutes; claims under common law; and vicarious liability. The causes of action relate to the purchase of private placements in Claimant's account, including but not limited to GPB Capital.

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 an award ordering Respondent to pay an amount between \$100,000.00 and \$500,000.00, including all direct and/or consequential damages, and statutory and/or punitive damages, plus interest and costs as provided by statute, as follows: all sums lost in Claimant's account on any or all transactions made or not made; plus, additionally or alternatively, all lost opportunities incurred as a result of acts and/or omissions; plus, additionally or alternatively, rescission of any or all transactions as sought; plus, additionally or alternatively, statutory damages as provided by applicable law; plus, additionally or alternatively, punitive damages in an amount that the Panel deemed appropriate; plus, pre-award and pre-judgment interest on all sums invested from the date deposited until the date of the award and/or judgment and until such sums are paid, all at the highest rate allowed by law; plus, additionally or alternatively, all costs of these proceedings and for recovery of damages incurred, including legal fees, including while on appeal, if any, and for collection; plus, additionally or alternatively, any and all other relief available to Claimant, in law or equity or otherwise, which may be granted to Claimant by the Panel.

In the Statement of Answer, Respondent requested the dismissal of Claimant's claims, and a recommendation of expungement of all references to this matter from the Central Registration Depository ("CRD") registration records of Unnamed Party Lawrence Alan Hardee ("Hardee.")

OTHER ISSUES CONSIDERED AND DECIDED

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

On November 10, 2021, Claimant filed a notice of settlement. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On December 9, 2021, Respondent filed a Motion for Expungement on behalf of Unnamed Party Hardee, to which no response was filed.

The Panel conducted a recorded, telephonic hearing on January 25, 2022, so the parties could present oral argument and evidence on Respondent's request for expungement. Claimant and his counsel did not participate in the expungement hearing. The FINRA Case Administrator communicated with the attorney for Claimant and informed him of the pending expungement hearing. Claimant's attorney informed the Case Administrator that Claimant would not participate in the expungement hearing. Respondent's counsel, Mr. Hayes-Macaluso, stated that he informed Claimant's attorney of the expungement hearing.

The Panel reviewed Unnamed Party Hardee'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 Unnamed Party Hardee contributed to the settlement amount. Unnamed Party Hardee testified that he contributed to the settlement amount to avoid a prolonged arbitration and attorneys' fees, as well as to maintain his friendship with Claimant. Unnamed Party Hardee testified that he received the subject investments in return for providing the funds for the settlement.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Unnamed Party Hardee's testimony and BrokerCheck® Report; the New Account Application for Claimant; Updated Account Application for Claimant; Private Placement/Reg D Investment Suitability and Investor Acknowledgement Form; Subscription Booklets; Claimant's Statement of Claim; Respondent's Answer and Defenses; and the Settlement Agreement.

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 2082725) from registration records maintained by the CRD for Unnamed Party Lawrence Alan Hardee (CRD Number 1701419) with the understanding that, pursuant to Notice to Members 04-16, Unnamed Party Hardee 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:

Unnamed Party Hardee credibly testified that Claimant was an experienced investor and that the particular investments were suitable and not over-concentrated. Unnamed Party Hardee testified that Claimant sought to diversify his investments into something other than stock.

Claimant's New Account Application and Updated Account Application show that his risk tolerance was aggressive growth and that he possessed an appropriate level of income, net worth, time horizon, knowledge, and experience for the particular investments. Unnamed Party Hardee testified that he and Claimant had conversations at least quarterly during their years-long relationship about these investments, and Claimant never expressed any dissatisfaction. Unnamed Party testified that Claimant received disclosures regarding fees and the illiquidity of these investments and never communicated any dissatisfaction. Unnamed Party Hardee testified that he was well within the Respondent's guidelines for avoiding over-concentration of such investments in Claimant's account. Unnamed Party Hardee thus had a reasonable basis for the advice he gave to Claimant and placement of Claimant's funds into these particular investments. No one testified to dispute Unnamed Party Hardee's testimony and the record shows no contradictory documentary evidence.

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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent Center Street Securities, Inc. is assessed the following:

Member Surcharge = \$ 1,900.00
Member Process Fee = \$ 3,750.00

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: November 18, 2020 1 session

One (1) hearing session on expungement request @ \$1,125.00/session = \$ 1,125.00
Hearing: January 25, 2022 1 session

Total Hearing Session Fees = \$ 2,250.00

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

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

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

ARBITRATION PANEL

Maurice M. Feller	-	Public Arbitrator, Presiding Chairperson
Stephen Earl Clark	-	Public Arbitrator
Douglas Charles Weinstein	-	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

Maurice M. Feller

Maurice M. Feller
Public Arbitrator, Presiding Chairperson

02/04/2022

Signature Date

Stephen Earl Clark

Stephen Earl Clark
Public Arbitrator

02/06/2022

Signature Date

Douglas Charles Weinstein

Douglas Charles Weinstein
Public Arbitrator

02/06/2022

Signature Date

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February 07, 2022

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