

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

ROBERT MICHAEL CULLEN, on)	
behalf of himself and all others similarly)	Cause No.: 20SL-CC02119
situated,)	
)	
Plaintiffs,)	
)	Judge: Brian H. May
v.)	
)	
SEAN AARON BRADY, et al.,)	DEFENDANT FIRST ALLIED
)	SECURITIES, INC.’S ANSWER TO
)	CLASS ACTION PETITION
Defendants.)	
)	<i>Jury Demand Endorsed Herein</i>
)	

Defendant First Allied Securities, Inc. (“First Allied” or “Defendant”), by and through counsel, states as follows for its Answer to the Class Action Petition (“Petition”) of Robert Michael Cullen (“Plaintiff”):

1. The Factual Summary section of the Petition contains a lengthy recitation of generalized allegations against the named defendants to which First Allied cannot respond with any accuracy or specificity. To the extent a response is required, First Allied admits that Sean Aaron Brady was a registered representative associated with First Allied as an independent contractor from May 2008 through October 20, 2017. First Allied further admits that it terminated Mr. Brady on October 20, 2017. First Allied admits that the Central Registration Depository (“CRD”) Report through FINRA lists the reasons for Mr. Brady’s termination and speaks for itself. Further answering, First Allied is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in the Factual Summary, and therefore denies the same.

2. First Allied is without knowledge or information sufficient to form a belief as

to the truth of the allegations set forth in Paragraph 1 of the Petition, and therefore denies the same.

3. First Allied admits that Sean Aaron Brady was a registered representative associated with First Allied as an independent contractor from May 2008 through October 20, 2017. First Allied further admits that, during his association with First Allied, his branch address was listed as 4400 S. Lindbergh Blvd, St. Louis, MO 63127 and he registered his business as Innovative Investment Concepts dba Investment Concepts. Further answering, First Allied is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 2 of the Petition, and therefore denies the same.

4. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 3 of the Petition, and therefore denies the same.

5. First Allied admits that it is a corporation organized under the laws of the State of New York with its principal place of business in San Diego, CA. First Allied denies the remaining allegations set forth in Paragraph 4 of the Petition.

6. First Allied denies the allegations in Paragraph 5 of the Petition.

7. First Allied denies the allegations in Paragraph 6 of the Petition.

8. First Allied admits that Sean Aaron Brady was a registered representative associated with First Allied as an independent contractor from May 2008 through October 20, 2017. First Allied further admits to defending itself in arbitration arising from the alleged misconduct of Mr. Brady. Further answering, First Allied is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in

Paragraph 7 of the Petition, and therefore denies the same.

9. First Allied admits that Mr. Brady's CRD Report speaks for itself. Further answering, First Allied is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 8 of the Petition, and therefore denies the same.

10. Paragraph 9 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied admits that, consistent with its FINRA reporting requirements, its CRD Report contains several disclosures that span the period of more than 25 years that First Allied has been conducting business as a broker-dealer. Further answering, First Allied's CRD Report speaks for itself. First Allied denies any remaining allegations contained in Paragraph 9 of the Petition.

11. Paragraph 10 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations set forth in Paragraph 10 of the Petition.

12. Paragraph 11 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations set forth in Paragraph 11 of the Petition.

13. Paragraph 12 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 12 of the Petition, and therefore denies the same.

14. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 13 of the Petition, and therefore denies

the same.

15. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 14 of the Petition, and therefore denies the same.

16. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 15 of the Petition, and therefore denies the same.

17. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 16 of the Petition, and therefore denies the same.

18. First Allied admits that Plaintiff received income from annuities purchased through First Allied. Further answering, First Allied is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 17 of the Petition, and therefore denies the same.

19. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 18 of the Petition, and therefore denies the same.

20. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 19 of the Petition, and therefore denies the same.

21. Paragraph 20 of the Petition sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations in Paragraph 20 of the Petition.

22. Paragraph 21 of the Petition sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations in Paragraph 21 of the Petition.

23. Paragraph 22 of the Petition sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations in Paragraph 22 of the Petition.

24. Paragraph 23 of the Petition sets forth legal conclusions to which no response is required. To the extent a response is required, denies the allegations in Paragraph 23 of the Petition.

25. First Allied denies the allegations in Paragraph 24 of the Petition.

26. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 25 of the Petition, and therefore denies the same.

27. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 26 of the Petition, and therefore denies the same.

28. Paragraph 27 sets forth a legal conclusion to which no response is required. To the extent a response is required, First Allied states that the suitability of any recommendation is unique and specific to a particular investor. Further answering, First Allied denies the remaining allegations in Paragraph 27 of the Petition.

29. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 28 of the Petition, and therefore denies the same.

30. Paragraph 29 sets forth a legal conclusion to which no response is required. To the extent a response is required, First Allied states that the suitability of any recommendation is unique and specific to a particular investor. Further answering, First Allied is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 29 of the Petition, and therefore denies the same.

31. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 30 of the Petition, and therefore denies the same.

32. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 31 of the Petition, and therefore denies the same.

33. First Allied denies the allegations in Paragraph 32 of the Petition.

34. First Allied denies the allegations in Paragraph 33 of the Petition.

35. First Allied denies the allegations in Paragraph 34 of the Petition.

36. First Allied denies the allegations in Paragraph 35 of the Petition.

37. First Allied denies the allegations in Paragraph 36 of the Petition.

38. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 37 of the Petition, and therefore denies the same.

39. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 38 of the Petition, and therefore denies the same.

40. First Allied is without knowledge or information sufficient to form a belief as

to the truth of the allegations set forth in Paragraph 39 of the Petition, and therefore denies the same.

41. Paragraph 40 of the Petition sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations in Paragraph 40 of the Petition.

42. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 41 of the Petition, and therefore denies the same.

43. First Allied denies the allegations in Paragraph 42 of the Petition.

44. Paragraph 43 sets forth a legal conclusion to which no response is required. To the extent a response is required, First Allied states that the suitability of any recommendation is unique and specific to a particular investor. Further answering, First Allied is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 43 of the Petition, and therefore denies the same.

45. First Allied denies the allegations in Paragraph 44 of the Petition.

46. First Allied denies the allegations in Paragraph 45 of the Petition.

47. Paragraph 46 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations in Paragraph 46 of the Petition.

48. Paragraph 47 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations in Paragraph 47 of the Petition.

49. Paragraph 48 sets forth legal conclusions to which no response is required. To

the extent a response is required, First Allied denies the allegations in Paragraph 48 of the Petition.

50. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 49 of the Petition, and therefore denies the same.

51. First Allied states that the suitability of any recommendation is unique and specific to a particular investor. Further answering, First Allied is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 50 of the Petition, and therefore denies the same.

52. First Allied restates and reavers Paragraphs 1 through 51 of its Answer to Plaintiff's Petition as if fully rewritten herein.

53. First Allied denies that this matter may be maintained as a class action as alleged in Paragraph 52 of the Petition.

54. First Allied denies that this matter may be maintained as a class action as alleged in Paragraph 53 of the Petition. To the extent this matter proceeds, First Allied admits that the named plaintiffs should not include those individuals who have already entered into settlement agreements releasing claims against First Allied.

55. First Allied denies that this matter may be maintained as a class action as alleged in Paragraph 54 of the Petition.

56. Paragraph 55 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations in Paragraph 55 of the Petition.

57. First Allied is without knowledge or information sufficient to form a belief as

to the truth of the allegations set forth in Paragraph 56 of the Petition, and therefore denies the same.

58. Paragraph 57 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations in Paragraph 57 of the Petition.

59. Paragraph 58 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations in Paragraph 58 of the Petition.

60. Paragraph 59 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations in Paragraph 59 of the Petition.

61. Paragraph 60 and all subparagraphs set forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations in Paragraph 60 of the Petition, including all subparagraphs.

62. Paragraph 61 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations in Paragraph 61 of the Petition.

63. First Allied admits that the referenced Tolling Agreements between Plaintiff and First Allied speaks for itself. Further answering, First Allied is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 62 of the Petition, and therefore denies the same.

64. First Allied denies the allegations in Paragraph 63 of the Petition.

65. First Allied denies the allegations in Paragraph 64 of the Petition.

66. First Allied denies the allegations in Paragraph 65 of the Petition.

67. Paragraph 66 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations in Paragraph 66 of the Petition.

68. First Allied restates and reavers Paragraphs 1 through 67 of its Answer to Plaintiff's Petition as if fully rewritten herein.

69. First Allied denies the allegations in Paragraph 68 of the Petition.

70. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 69 of the Petition, and therefore denies the same.

71. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 70 of the Petition, and therefore denies the same.

72. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 71 of the Petition, and therefore denies the same.

73. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 72 of the Petition, and therefore denies the same.

74. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 73 of the Petition, and therefore denies the same.

75. First Allied is without knowledge or information sufficient to form a belief as

to the truth of the allegations set forth in Paragraph 74 of the Petition, and therefore denies the same.

76. First Allied denies the allegations in Paragraph 75 of the Petition.

77. First Allied denies the allegations in Paragraph 76 of the Petition.

78. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 77 of the Petition, and therefore denies the same.

79. Paragraph 78 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations in Paragraph 78 of the Petition.

80. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 79 of the Petition, and therefore denies the same.

81. First Allied denies the allegations in Paragraph 80 of the Petition, including all subparagraphs.

82. First Allied restates and reavers Paragraphs 1 through 81 of its Answer to Plaintiff's Petition as if fully rewritten herein.

83. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 82 the Petition, and therefore denies the same.

84. First Allied denies the allegations in Paragraph 83 of the Petition.

85. First Allied denies the allegations in Paragraph 84 of the Petition.

86. First Allied is without knowledge or information sufficient to form a belief as

to the truth of the allegations set forth in Paragraph 85 of the Petition, and therefore denies the same.

87. First Allied denies the allegations in Paragraph 86 of the Petition.

88. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 87 of the Petition, and therefore denies the same.

89. First Allied denies the allegations in Paragraph 88 of the Petition.

90. First Allied denies the allegations in Paragraph 89 of the Petition, including all subparagraphs.

91. First Allied restates and reavers Paragraphs 1 through 90 of its Answer to Plaintiff's Petition as if fully rewritten herein.

92. Paragraph 91 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 91 of the Petition, and therefore denies the same.

93. Paragraph 92 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 92 of the Petition, and therefore denies the same.

94. First Allied denies the allegations in Paragraph 93 of the Petition, including all subparagraphs.

95. First Allied restates and reavers Paragraphs 1 through 94 of its Answer to Plaintiff's Petition as if fully rewritten herein.

96. Paragraph 95 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 95 of the Petition, and therefore denies the same.

97. First Allied denies the allegations in Paragraph 96 of the Petition.

98. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 97 of the Petition, and therefore denies the same.

99. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 98 of the Petition, and therefore denies the same.

100. Paragraph 99 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied denies the allegations set forth in Paragraph 99 of the Petition.

101. First Allied denies the allegations in Paragraph 100 of the Petition.

102. First Allied denies the allegations in Paragraph 101 of the Petition.

103. First Allied restates and reavers Paragraphs 1 through 102 of its Answer to Plaintiff's Petition as if fully rewritten herein.

104. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 103 of the Petition, and therefore denies the same.

105. First Allied denies the allegations in Paragraph 104 of the Petition.

106. First Allied denies the allegations in Paragraph 105 of the Petition, including

all subparagraphs.

107. First Allied restates and reavers Paragraphs 1 through 106 of its Answer to Plaintiff's Petition as if fully rewritten herein.

108. Paragraph 107 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 107 of the Petition, and therefore denies the same.

109. First Allied denies the allegations in Paragraph 108 of the Petition.

110. To the extent Paragraph 109 of the Complaint alleges any misconduct by First Allied, First Allied denies same. Further answering, First Allied is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 109 of the Petition, and therefore denies the same.

111. First Allied denies the allegations in Paragraph 110 of the Petition.

112. Paragraph 111 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 111 of the Petition, and therefore denies the same.

113. First Allied denies the allegations in Paragraph 112 of the Petition.

114. First Allied denies the allegations in Paragraph 113 of the Petition.

115. First Allied restates and reavers Paragraphs 1 through 114 of its Answer to Plaintiff's Petition as if fully rewritten herein.

116. Paragraph 115 sets forth legal conclusions to which no response is required. To the extent a response is required, First Allied is without knowledge or information sufficient

to form a belief as to the truth of the allegations set forth in Paragraph 115 of the Petition, and therefore denies the same.

117. First Allied denies the allegations in Paragraph 116 of the Petition.

118. First Allied denies the allegations in Paragraph 117 of the Petition.

119. First Allied is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 118 of the Petition, and therefore denies the same.

120. First Allied denies the allegations in Paragraph 119 of the Petition.

121. First allied denies the allegations in Paragraph 120 of the Petition.

122. First Allied denies the allegations in Paragraph 121 of the Petition.

123. First Allied denies all allegations not specifically admitted herein to be true.

AFFIRMATIVE DEFENSES TO ALL COUNTS

1. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that the Petition has failed to state a cause of action upon which relief can be granted.

2. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that the Petition fails for lack of subject matter jurisdiction as the parties signed a binding arbitration agreement to arbitrate this dispute.

3. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that the Petition fails due to improper venue.

4. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that the claims set forth in the Petition are barred by applicable statutes of limitations and/or FINRA's six-year eligibility rule, FINRA Rule 12206.

5. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that the Petition fails to meet the requirements of Mo. Sup. Ct. R. Rule 52.08.

6. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that the claims set forth in the Petition are subject to mandatory arbitration before the Financial Industry Regulatory Authority.

7. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that the Petition fails because Plaintiff ordered, consented to and/or approved all actions and/or inactions of First Allied and/or its agents or representatives.

8. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that the Petition fails as the alleged damages must be offset by the withdrawals, distributions, gains, tax credits, or other financial benefits received by or available to Plaintiff, including any distributions or withdrawals Plaintiff received from his accounts and/or investments, as they were not and could not have been caused by any actions or inactions of First Allied.

9. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that the claims set forth in the Petition are barred by the doctrine of ratification.

10. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that the claims set forth in the Petition are barred by Plaintiff's own contributory and/or comparative negligence and fault.

11. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that the claims set forth in the Petition are barred as a result of Plaintiff's assumption of the risk, whether express, implied, or otherwise.

12. Further answering and for its affirmative defense, First Allied alleges, in the

alternative, that the claims set forth in the Petition are barred by the equitable doctrines of waiver, estoppel, and/or laches.

13. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that Plaintiff has failed to mitigate his damages.

14. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that the losses described in the Petition were not proximately caused by any acts or omissions of First Allied.

15. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that any damages described in the Petition were the result of the direct and proximate actions and/or inactions of intervening and/or superseding actions and/or omissions of parties other than First Allied.

16. Further answering and for its affirmative defense, First Allied alleges, in the alternative, that the Petition fails to set forth sufficient facts to support an award of punitive damages.

17. Further answering and for its affirmative defense, Plaintiff is not entitled to attorney's fees or costs because there is no basis for recovery under statute, contract, or otherwise.

18. First Allied respectfully reserves the right to amend its Answer to add such additional affirmative defenses, crossclaims, counterclaims, and/or third-party claims, as may be disclosed during the course of discovery in the captioned matter.

WHEREFORE, Defendant First Allied Securities, Inc., having fully answered Plaintiff's Petition, respectfully requests that Plaintiff's Petition be dismissed, with prejudice, at Plaintiff's cost, and the court award First Allied's costs, including reasonable attorney's

fees, and such further relief as the Court deems proper, equitable, and just.

Respectfully submitted,

/s/ Jennine D. Adamek Moore
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*Attorneys for Defendant First Allied Securities,
Inc.*

JURY DEMAND

Defendant First Allied Securities, Inc. hereby requests a jury trial on all issues triable to a jury.

/s/ Jennine D. Adamek Moore
JENNINE D. ADAMEK MOORE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was electronically filed with the Circuit Court of St. Louis, County, this 28th day of September, 2020 with service via operation of the court's electronic filing system to:

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/s/ Jennine D. Adamek Moore
JENNINE D. ADAMEK MOORE