

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

ROBERT MICHAEL CULLEN, on)
behalf of himself and all others)
similarly situated,)

Plaintiffs,)

v.)

Cause No.: 20SL-CC02119

SEAN AARON BRADY, et al.,)

JURY TRIAL DEMANDED

Defendants.)

**DEFENDANTS SEAN AARON BRADY AND INNOVATIVE
INVESTMENT CONCEPTS' ANSWER TO CLASS ACTION PETITION**

Defendants Sean Aaron Brady and Innovative Investment Concepts (“Defendants”), by and through counsel, states as follows for its Answer to the Class Action Petition (“Petition”) of Robert Michael Cullen (“Plaintiff”):

The Factual Summary section of the Petition contains a lengthy recitation of generalized allegations against the named defendants to which Defendants cannot respond with any accuracy or specificity. To the extent a response is required, Defendants admit that Sean Aaron Brady was a registered representative associated with First Allied as an independent contractor from May 2008 through October 20, 2017. Defendants further admit that Brady’s association with First Allied was terminated on October 20, 2017. Defendants admit that the Central Registration Depository (“CRD”) Report through FINRA lists the reasons for Mr. Brady’s termination and the existence of certain customer

complaints that have settled without any admission of liability on the part of Mr. Brady. The CRD report speaks for itself and Defendants deny any allegations inconsistent therewith. Defendants deny the remaining allegations set forth in the Factual Summary.

1. Defendants are 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 deny them.

2. Defendants admit that Mr. Brady was a registered representative associated with First Allied as an independent contractor from May 2008 through October 20, 2017. Defendants further admit that during Mr. Brady's 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. Defendants further admit that his address is correct and deny the remaining allegations of Paragraph 2 of the Petition.

3. Defendants admit that Innovative Investment Concepts has been dissolved. Defendants deny the remaining allegations of Paragraph 3 of the Petition.

4. Defendants lack information sufficient to form a belief as to the truth of the allegations of set forth in Paragraph 4 of the Petition and therefore deny them.

5. Defendants deny the allegations in Paragraph 5 of the Petition.

6. Defendants deny the allegations in Paragraph 6 of the Petition.

7. Defendants admit that Mr. Brady was a registered representative associated with First Allied as an independent contractor from May 2008 through October 20, 2017. Defendants further admit that he has been the subject of certain customer complaints but deny the allegations of those complaints. Defendants deny the remaining allegations set forth in Paragraph 7 of the Petition.

8. Mr. Brady's CRD Report speaks for itself and Defendants deny any allegations inconsistent therewith.

9. Defendants lack information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 9 of the Petition and therefore deny them.

10. Paragraph 10 sets forth legal conclusions to which no response is required.

11. Paragraph 11 sets forth legal conclusions to which no response is required.

12. Paragraph 12 sets forth legal conclusions to which no response is required.

13. Upon information and belief, Defendants admit the allegations of Paragraph 13 of the Petition.

14. Defendants are 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 deny them.

15. Defendants are 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 deny them.

16. Defendants deny the allegations of Paragraph 16 of the Petition.

17. Defendants admit that Plaintiff received income from annuities purchased through First Allied. Further answering, Defendants are 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 deny them.

18. Defendants are 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 deny them.

19. Defendants are 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 deny them.

20. Defendants deny the allegations set forth in of Paragraph 20 of the Petition.

21. Defendants deny the allegations in Paragraph 21 of the Petition.

22. Defendants deny the allegations in Paragraph 22 of the Petition.

23. Defendants deny the allegations in Paragraph 23 of the Petition.

24. Defendants deny the allegations in Paragraph 24 of the Petition.

25. Defendants deny the allegations in Paragraph 25 of the Petition.

26. Defendants deny the allegations in Paragraph 26 of the Petition.

27. Paragraph 27 sets forth a legal conclusion to which no response is required.

To the extent a response is required, Defendants deny the allegations in Paragraph 27 of

the Petition and state that the suitability of any recommendation is unique and specific to a particular investor.

28. Defendants are 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 deny them.

29. Paragraph 29 sets forth a legal conclusion to which no response is required. To the extent a response is required, Defendants state that the suitability of any recommendation is unique and specific to a particular investor. Further answering, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 29 of the Petition, and therefore deny them.

30. Defendants are 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 deny them.

31. Defendants deny the allegations in Paragraph 31 of the Petition.

32. Defendants deny the allegations in Paragraph 32 of the Petition.

33. Defendants deny the allegations in Paragraph 33 of the Petition.

34. Defendants deny the allegations in Paragraph 34 of the Petition.

35. Defendants deny the allegations in Paragraph 35 of the Petition.

36. Defendants deny the allegations in Paragraph 36 of the Petition.

37. Defendants are 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 deny them.

38. Defendants are 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 deny them.

39. Defendants deny the allegations in Paragraph 39 of the Petition.

40. Paragraph 40 of the Petition sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 40 of the Petition.

41. Defendants deny the allegations in Paragraph 41 of the Petition.

42. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 42 of the Petition, and therefore deny them.

43. Paragraph 43 sets forth a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations set forth in Paragraph 43 of the Petition and affirmatively state that the suitability of any recommendation is unique and specific to a particular investor.

44. Defendants deny the allegations in Paragraph 44 of the Petition.

45. Defendants deny the allegations in Paragraph 45 of the Petition.

46. Paragraph 46 of the Petition sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 46 of the Petition.

47. Defendants deny the allegations in Paragraph 47 of the Petition.

48. Defendants deny the allegations in Paragraph 48 of the Petition.

49. Defendants admit that Plaintiff purports to seek damages but deny that Plaintiffs' claims have any merit.

50. Defendants deny the allegations in Paragraph 50 of the Petition and further answering, state that the suitability of any recommendation is unique and specific to a particular investor.

51. Defendants restate and reallege Paragraphs 1 through 51 of their Answer to Plaintiff's Petition as if fully rewritten herein.

52. Defendants deny that this matter may be maintained as a class action as alleged in Paragraph 52 of the Petition.

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

54. Defendants deny that this matter may be maintained as a class action as alleged in Paragraph 54 of the Petition.

55. Paragraph 55 sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 55 of the Petition.

56. Defendants are 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 deny them.

57. Paragraph 57 sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 57 of the Petition.

58. Paragraph 58 sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 58 of the Petition.

59. Paragraph 59 sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 59 of the Petition.

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

61. 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.

62. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 62 of the Petition, and therefore deny them.

63. Defendants deny the allegations in Paragraph 63 of the Petition.

64. Defendants deny the allegations in Paragraph 64 of the Petition.

65. Defendants deny the allegations in Paragraph 65 of the Petition.

66. Paragraph 66 sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 66 of the Petition.

67. Defendants restate and reallege Paragraphs 1 through 67 their Answer to Plaintiff's Petition as if fully rewritten herein.

68. Defendants deny the allegations in Paragraph 68 of the Petition.

69. Defendants deny the allegations in Paragraph 69 of the Petition.

70. Defendants deny the allegations in Paragraph 70 of the Petition.

71. Paragraph 71 sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 71 of the Petition.

- 72. Defendants deny the allegations in Paragraph 72 of the Petition.
- 73. Defendants deny the allegations in Paragraph 73 of the Petition.
- 74. Defendants deny the allegations in Paragraph 74 of the Petition.
- 75. Defendants deny the allegations in Paragraph 75 of the Petition.
- 76. Defendants deny the allegations in Paragraph 76 of the Petition.
- 77. Defendants deny the allegations in Paragraph 77 of the Petition.
- 78. Defendants deny the allegations in Paragraph 78 of the Petition.
- 79. Defendants deny the allegations in Paragraph 79 of the Petition.
- 80. Defendants deny the allegations in Paragraph 80 of the Petition, including

all subparagraphs.

81. Defendants restate and reallege Paragraphs 1 through 81 of their Answer to Plaintiff's Petition as if fully rewritten herein.

82. The allegations of Paragraph 82 constitute legal conclusions to which no response is required.

- 83. Defendants deny the allegations in Paragraph 83 of the Petition.
- 84. Defendants deny the allegations in Paragraph 84 of the Petition.
- 85. Defendants deny the allegations in Paragraph 85 of the Petition.
- 86. Defendants deny the allegations in Paragraph 86 of the Petition.
- 87. Defendants deny the allegations in Paragraph 85 of the Petition.
- 88. Defendants deny the allegations in Paragraph 88 of the Petition.

89. Defendants deny the allegations in Paragraph 89 of the Petition, including all subparagraphs.

90. Defendants restate and reallege Paragraphs 1 through 90 of their Answer to Plaintiff's Petition as if fully rewritten herein.

91. Paragraph 91 sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations set forth in Paragraph 91 of the Petition.

92. Paragraph 92 sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations set forth in Paragraph 92 of the Petition.

93. Defendants deny the allegations in Paragraph 93 of the Petition, including all subparagraphs.

94. Defendants restate and reallege Paragraphs 1 through 94 of their Answer to Plaintiff's Petition as if fully rewritten herein.

95. Paragraph 95 sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations set forth in Paragraph 95 of the Petition.

96. Defendants deny the allegations in Paragraph 96 of the Petition.

97. Defendants deny the allegations in Paragraph 96 of the Petition.

98. Defendants deny the allegations in Paragraph 96 of the Petition.

99. Paragraph 99 sets forth legal conclusions to which no response is required.

100. Defendants deny the allegations in Paragraph 100 of the Petition.

101. Defendants deny the allegations in Paragraph 101 of the Petition.

102. Defendants restate and reallege Paragraphs 1 through 102 of their Answer to Plaintiff's Petition as if fully rewritten herein.

103. Defendants deny the allegations in Paragraph 103 of the Petition.

104. Defendants deny the allegations in Paragraph 104 of the Petition.

105. Defendants deny the allegations in Paragraph 105 of the Petition, including all subparagraphs.

106. The allegations of Paragraph 106 are not directed to Defendants and therefore no response is required. To the extent a response is required, Defendants restate and reallege Paragraphs 1 through 106 of their Answer to Plaintiff's Petition as if fully rewritten herein.

107. The allegations of Paragraph 107 are not directed to Defendants and therefore no response is required. To the extent a response is required, Paragraph 107 sets forth legal conclusions to which no response is required.

108. The allegations of Paragraph 108 are not directed to Defendants and therefore no response is required. To the extent a response is required, Defendants lack information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 108 of the Petition and therefore deny them.

109. The allegations of Paragraph 109 are not directed to Defendants and therefore no response is required. To the extent a response is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 109 of the Petition, and therefore deny the same.

110. The allegations of Paragraph 110 are not directed to Defendants and therefore no response is required. To the extent a response is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 110 of the Petition, and therefore deny the same.

111. The allegations of Paragraph 111 are not directed to Defendants and therefore no response is required. To the extent a response is required, Paragraph 111 sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 110 of the Petition, and therefore denies the same.

112. The allegations of Paragraph 112 are not directed to Defendants and therefore no response is required. To the extent a response is required, Paragraph 112 sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 110 of the Petition, and therefore denies the same.

113. The allegations of Paragraph 113 are not directed to Defendants and therefore no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 113 of the Petition.

114. Defendants restate and reallege Paragraphs 1 through 113 of their Answer to Plaintiff's Petition as if fully rewritten herein.

115. Paragraph 115 sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants are 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 them.

116. Defendants deny the allegations in Paragraph 116 of the Petition.

117. Defendants deny the allegations in Paragraph 117 of the Petition.

118. Defendants deny the allegations in Paragraph 118 of the Petition.

119. Defendants deny the allegations in Paragraph 119 of the Petition.

120. Defendants deny the allegations in Paragraph 120 of the Petition.

121. Defendants deny the allegations in Paragraph 121 of the Petition.

122. Defendants deny all allegations not specifically admitted herein to be true.

AFFIRMATIVE DEFENSES

1. Defendants allege, in the alternative, that the Petition has failed to state a cause of action upon which relief can be granted.

2. Defendants allege, 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. Defendants allege, in the alternative, that the Petition fails due to improper venue.

4. Defendants allege, 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. Defendants allege, in the alternative, that the Petition fails to meet the requirements of Mo. Sup. Ct. R. Rule 52.08.

6. Defendants allege, in the alternative, that the claims set forth in the Petition are subject to mandatory arbitration before the Financial Industry Regulatory Authority.

7. Defendants allege, in the alternative, that the Petition fails because Plaintiff ordered, consented to and/or approved all actions and/or inactions of Defendants.

8. Defendants allege, 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 Defendants.

9. Defendants allege, in the alternative, that the claims set forth in the Petition are barred by the doctrine of ratification.

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

13. Defendants allege, in the alternative, that Plaintiff has failed to mitigate his damages.

14. Defendants allege, in the alternative, that the losses described in the Petition were not proximately caused by any acts or omissions of Defendants.

15. Defendants allege, 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 Defendants.

16. Defendants allege, in the alternative, that the Petition fails to set forth sufficient facts to support an award of punitive damages.

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

18. Defendants respectfully reserve the right to amend their Answer to add such additional affirmative defenses, cross-claims, counterclaims, and/or third-party claims, as may be disclosed during the course of discovery in the captioned matter.

WHEREFORE, Defendants Sean Aaron Brady and Innovative Investment Concepts respectfully requests that Plaintiff's Petition be dismissed, with prejudice, at Plaintiff's cost, and the court award Defendants' costs, including reasonable attorney's fees, and such further relief as the Court deems proper, equitable, and just.

Dated: September 28, 2020

Respectfully submitted,

GREENSFELDER, HEMKER & GALE, P.C.

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