

SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: JEFFREY K. OING
J.S.C. _____
Justice

PART 48

Index Number : 652820/2014
MBF CLEARING CORP.
vs.
JPMORGAN CHASE BANK, N.A.
SEQUENCE NUMBER : 002
DISMISS

INDEX NO. _____
MOTION DATE _____
MOTION SEQ. NO. _____

The following papers, numbered 1 to _____, were read on this motion to/for _____

Notice of Motion/Order to Show Cause — Affidavits — Exhibits _____ | No(s). _____
Answering Affidavits — Exhibits _____ | No(s). _____
Replying Affidavits _____ | No(s). _____

Upon the foregoing papers, it is ordered that this motion is

Mtn to dismiss the complaint is granted for the reasons stated on the 1/28/16 record which is incorporated herein for all purpose. In that regard, the 1st thru 7th c/a for fraud & misrepresentation are dismissed on the grounds that T failed to demonstrate sufficient facts to support justifiable, reasonable reliance, particularly where documentary proof indicates that T's under took due diligence. As to the argument that the claims are based on A's alleged failure to establish a segregated account, that is unavailing b/c the crux of the issue is the investment in USG Fund that was found not to be proper. Indeed, the record fails to demonstrate that such alleged improper account was the sole basis of the underlying CFTC investigation. As to the remaining three c/a, those are dismissed for the reasons stated on the record.

Dated: 1/28/16

JEFFREY K. OING
J.S.C., J.S.C.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

- 1. CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION
- 2. CHECK AS APPROPRIATE: MOTION IS: GRANTED DENIED GRANTED IN PART OTHER
- 3. CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER
 DO NOT POST FIDUCIARY APPOINTMENT REFERENCE