

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Diane M. Mindrum

Case Number: 19-01508

vs.

Respondents
Aaron Capital Incorporated
David Sanford Wolfe

Hearing Site: Los Angeles, California

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 and Associated Person

This case was decided by a majority non-public panel.

REPRESENTATION OF PARTIES

For Claimant Diane M. Mindrum (“Claimant”): James P. Lucking, Esq., Lucking LLC, Boston, Massachusetts.

For Respondents Aaron Capital Incorporated (“Aaron Capital”) and David Sanford Wolfe (“Wolfe”): James E. Bingham, Esq., Bingham Law, Sparta, Tennessee.

Hereinafter, Respondents Aaron Capital and Wolfe are collectively referred to as “Respondents”.

CASE INFORMATION

Statement of Claim filed on or about: May 30, 2019.

Claimant signed the Submission Agreement: May 30, 2019.

Statement of Answer filed by Respondents on or about: August 6, 2019.

Respondents signed the Submission Agreement: August 5, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty; negligence; breach of contract; fraud; breach of securities regulatory requirements; and

failure of supervision. The causes of action relate to investments in Lyzer Diagnostics and a personal loan made to Wolfe.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Compensatory damages in excess of \$255,000.00;
2. Interest;
3. Costs;
4. All FINRA costs, fees, and expenses in connection with this matter be charged to Respondents; and
5. Any other further relief that is deemed just and proper.

In the Statement of Answer, Respondents requested:

1. Claimant's claim be dismissed;
2. Costs be assessed to Claimant;
3. Reasonable attorneys' fees;
4. Costs;
5. Expenses; and
6. Any other relief to which Respondents may be entitled.

OTHER ISSUES CONSIDERED AND DECIDED

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

During the hearing on July 20, 2021, the parties agreed to settle this matter. Therefore, the remaining dates for the hearing were cancelled.

On July 28, 2021, Claimant filed a Motion for Entry of a Stipulated Award ("Motion for Stipulated Award"). On August 5, 2021, Respondents filed their opposition to the motion. Respondents agreed that both Aaron Capital and Wolfe are jointly and severally liable to Claimant, but requested that the award also note that the payment shall be made by Wolfe. On August 9, 2021, Claimant filed her reply, requesting that the Panel reject Respondents' request that Wolfe is solely responsible for payment.

On August 31, 2021, the Panel conducted a prehearing conference on the Motion for Stipulated Award and heard oral arguments from the parties. The Panel hereby rejects Respondents' request that payment be made solely by Wolfe.

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, prehearing conference and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$113,814.37 in outstanding principal and interest on the loan at issue in this matter pursuant to the parties' stipulation.
2. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$65,000.00 in attorneys' fees pursuant to the parties' stipulation.
3. Payment shall be made within thirty (30) days of the date of this Award in accordance with FINRA Rule 12904 of the Code of Arbitration Procedure ("Code").
4. Both Respondents are liable for the awarded amount and payment shall be made by either Wolfe or Aaron Capital to Claimant.
5. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services will retain or collect the non-refundable filing fees* 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, Aaron Capital 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:

Five (5) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	5,625.00
Pre-Hearing Conferences: October 2, 2019	1 session	
April 15, 2020	1 session	
October 29, 2020	1 session	
January 29, 2021	1 session	
August 31, 2021	1 session	
Two (2) hearing sessions with the Panel @ \$1,125.00/session	= \$	2,250.00
Hearings: July 20, 2021	2 sessions	
<hr/>		
Total Hearing Session Fees	= \$	7,875.00

The Panel has waived \$3,375.00 of the hearing session fees.

The Panel has assessed \$2,250.00 of the hearing session fees to Claimant.

The Panel has assessed \$2,250.00 of the hearing session fees jointly and severally to Respondents.

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

ARBITRATION PANEL

Mark T Risner	-	Public Arbitrator, Presiding Chairperson
Daniel A. Seiver	-	Non-Public Arbitrator
Arnold Edward Landsman	-	Non-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

Mark T Risner

Mark T Risner
Public Arbitrator, Presiding Chairperson

09/24/2021

Signature Date

Daniel A. Seiver

Daniel A. Seiver
Non-Public Arbitrator

09/24/2021

Signature Date

Arnold Edward Landsman

Arnold Edward Landsman
Non-Public Arbitrator

09/27/2021

Signature Date

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.

September 27, 2021

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