

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimants

Rocco J. Campanile, Individually  
and as Trustee of the Rocco J. Campanile and  
Florence Rita Campanile Trust

Case Number: 20-01967

vs.

Respondent

Berkley Creighton Badger

Hearing Site: Tampa, Florida

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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: Customers vs. Associated Person

This case was decided by an all-public panel.

**REPRESENTATION OF PARTIES**

For Claimants Rocco J. Campanile, Individually and as Trustee of the Rocco J. Campanile and Florence Rita Campanile Trust (“Claimants”): Kalju Nekvasil, Esq., Goodman & Nekvasil, P.A., St. Petersburg, Florida.

For Respondent Berkley Creighton Badger (“Respondent”): John R. Kiefner, Esq., Kiefner Law Offices, P.A., St. Petersburg, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: August 24, 2020.

Claimants signed the Submission Agreement: June 22, 2020.

Statement of Answer filed on or about: October 12, 2020.

Respondent signed the Submission Agreement: September 29, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: violations of federal securities law, breach of contract, common law fraud, breach of fiduciary duty, negligence, and gross negligence. The causes of action related to Claimants’ allegation that Respondent sold to Claimants unsuitable and high-risk investments, failed to conduct reasonable due diligence on those investments, and misrepresented the investments as

conservative, low-risk investment, and safe. The investments included Business Development Company of America; ARC Retail Centers of America, Inc.; GPB Holdings, LP; American Realty Capital NYC REIT, Inc.; ARC Hospitality Trust, Inc.; and Terra Income Fund 6, Inc.

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, Claimants requested compensatory damages of at least \$240,000.00; benefit of the bargain damages; lost opportunity costs; model portfolio damages; prejudgment interest; costs; reasonable attorneys' fees; punitive damages in an amount to be determined by the Panel; and such other relief as is deemed necessary and proper.

In the Statement of Answer, Respondent requested that the Panel dismiss the Statement of Claim and award attorneys' fees and costs to Respondent pursuant to Florida Statutes Chapter 57.105(1).

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

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. Respondent is liable for and shall pay to Claimants the sum of \$126,734.70 in compensatory damages.
2. Respondent is liable for and shall pay to Claimants interest on the above-stated sum at the rate of 4.31% per annum from date of the Award through and including when the Award is paid in full.
3. Respondent is liable for and shall pay to Claimants the sum of \$50,693.88 in attorneys' fees pursuant to the Federal Arbitration Act and the mutual submission of the authority to award attorneys' fees to the Panel through the Submission Agreements submitted by the parties.
4. Respondent is liable for and shall pay to Claimants the sum of \$11,139.49 in costs.
5. Respondent is liable for and shall pay to Claimants the sum of \$300.00 to reimburse Claimants for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.

6. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and treble damages, are denied.

### **FEES**

Pursuant to the Code of Arbitration Procedure, 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
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*\*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 Respondent's former firm, Edi Financial, Inc. is assessed the following:

Member Surcharge	= \$	1,700.00
Member Process Fee	= \$	3,250.00

#### **Contested Motion for Issuance of Subpoena Fees**

Fees apply for each decision on a contested motion for the issuance of a subpoena.

One (1) decision on a contested motion for the issuance of a subpoena with one (1) Arbitrator @ \$200.00	= \$	200.00
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Total Contested Motion for Issuance of Subpoena Fees	= \$	200.00
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The Panel has assessed the total contested motion for issuance of subpoena fees to Respondent.

#### **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: December 14, 2020	1 session	

Six (6) hearing sessions @ \$1,125.00/session	= \$	6,750.00
Hearings:		
August 3, 2021	2 sessions	
August 4, 2021	2 sessions	
August 5, 2021	2 sessions	

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Total Hearing Session Fees	= \$	7,875.00
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The Panel has assessed the total hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Nicholas John Taldone	-	Public Arbitrator, Presiding Chairperson
Michael A. Quintieri	-	Public Arbitrator
Lee Harris Schillinger	-	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**

***Nicholas John Taldone***

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Nicholas John Taldone  
Public Arbitrator, Presiding Chairperson

**08/11/2021**

\_\_\_\_\_  
Signature Date

***Michael A Quintieri***

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Michael A. Quintieri  
Public Arbitrator

**08/11/2021**

\_\_\_\_\_  
Signature Date

***Lee Harris Schillinger***

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Lee Harris Schillinger  
Public Arbitrator

**08/11/2021**

\_\_\_\_\_  
Signature Date

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August 11, 2021

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