

**Modified Award  
FINRA Dispute Resolution Services**

---

In the Matter of the Arbitration Between:

Claimant  
Estate of Lance Wynn

Case Number: 21-00797

vs.

Respondent  
Jaime M. Westenbarger

Hearing Site: Detroit, Michigan

---

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. Associated Person

**REPRESENTATION OF PARTIES**

For Claimant Estate of Lance Wynn (“Claimant”): Daniel J. Broxup, Esq., Mika Meyers PLC, Grand Rapids, Michigan.

Respondent Jaime M. Westenbarger (“Respondent”), pro se

**CASE INFORMATION**

Statement of Claim filed on or about: July 22, 2020.

Amended Statement of Claim filed on or about: August 28, 2020.

Second Amended Statement of Claim filed on or about: October 2, 2020.

Third Amended Statement of Claim filed on or about: October 22, 2020.

Claimant signed the Submission Agreement: July 21, 2020.

Respondent did not submit a Statement of Answer or sign the Submission Agreement.

**CASE SUMMARY**

In the Statement of Claim, as amended, Claimant asserted the following causes of action against Respondent: common-law conversion, statutory conversion under MCL 600.2919a, common law fraud, breach of contract, violations of FINRA Rule 3240, negligence, breach of fiduciary duty, and violations of the Michigan Uniform Securities Act (2002). The causes of action related to Claimant’s allegations that Respondent misappropriated a substantial sum of money, which was solicited as an investment in Respondent’s business (Forest Hills Financial, Inc.), and made unsuitable recommendations to generate large commissions, including recommendations for investments in multiple variable annuities, Benefit Street Partners Realty Trust, American Realty Capital Healthcare Trust, Northstar Realty Finance Corporation, Griffin-

American Healthcare REIT III, United Development Funding, ARC Realty Finance Trust, and Healthcare Trust Inc.

### **RELIEF REQUESTED**

In the Statement of Claim, as amended, Claimant requested compensatory damages; exemplary damages; punitive damages in an amount that is three times the compensatory and exemplary damages; and statutory attorneys' fees, costs, and interest.

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

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

Respondent did not file a Statement of Answer or properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code").

Claimant's claim against Respondent was originally brought in FINRA Arbitration Number 20-02305. On March 5, 2021, Claimant filed a request for default proceedings against Respondent, pursuant to Rule 12801 of the Code ("Claimant's Request").

Pursuant to Rule 12801 of the Code, the Chairperson appointed in FINRA Arbitration Number 20-02305 became the sole arbitrator to consider Claimant's Request.

The Arbitrator determined that Respondent was served with the Claim Notification letter dated February 26, 2021 by regular mail and FedEx mail, as evidenced by the FedEx tracking information available online. The Claim Notification letter notified Respondent that FINRA rules require parties to use the online DR Portal on a mandatory basis (except pro se investors) and that failure to register for the DR Portal will prevent the submission of pleadings, selection of arbitrators, and receipt of notification relating to case information and deadlines. The Arbitrator determined that Respondent is, therefore, bound by the Arbitrator's ruling and determination.

An Award was issued on April 16, 2021, denying Claimant's claims in their entirety. On April 26, 2021, Claimant filed a request for reconsideration pursuant to Rule 12905 and 12105(b) of the Code ("Request for Reconsideration") and submitted evidence in support of its claims. On April 27, 2021, after approval by the Director of Arbitration under Rule 12905(a)(3), Claimant's submissions were forwarded to the Arbitrator. In an Order dated May 4, 2021 ("Order"), the Arbitrator requested additional information from Claimant. On May 5, 2021, Claimant filed documents in response to the Order.

On May 5, 2021, Respondent registered for the DR Portal and was provided with access to all documents filed in the case. The same day, Respondent filed a response in opposition to Claimant's Request for Reconsideration ("Opposition"). On May 6, 2021, Claimant filed a reply to the Opposition ("Reply"). On May 12, 2021, Respondent filed a sur-reply to the Reply.

### **AWARD**

After considering the pleadings and all other submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to Claimant the sum of \$160,000.00, representing the principal balance due under the promissory note dated on or about November 1, 2011 (“Promissory Note”).
2. Respondent is liable for and shall pay to Claimant the sum of \$30,066.74 in interest due and owing under the Promissory Note from January 2015 through October 2016.
3. Respondent is liable for and shall pay to Claimant the sum of \$180,000.00 in treble damages pursuant to MCL 600.2919a for conversion of the \$60,000.00 check dated April 18, 2018.
4. Respondent is liable for and shall pay to Claimant the sum of \$28,372.47 in interest from April 2018 through April 2021 on the treble damages awarded in paragraph 3 above.
5. Respondent is liable for and shall pay to Claimant the sum of \$69,457.49 in attorneys’ fees pursuant to MCL 600.2919a.
6. Any and all claims for relief not specifically addressed herein, are denied.

**ARBITRATOR**

Sandra Franklin

-

Sole 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.

**Arbitrator's Signature**

***Sandra Franklin***

\_\_\_\_\_  
Sandra Franklin  
Sole Public Arbitrator

**05/14/2021**

\_\_\_\_\_  
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.

May 14, 2021

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