

**Award  
FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant  
Willie C. Grace

Case Number: 11-00868

vs.

Respondents  
Brookville Capital Partners, LLC, formerly known  
as New Castle Financial Services, LLC  
Andrew Garrett Inc.  
Spartan Capital Securities, LLC

Hearing Site: Jackson, Mississippi

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Nature of the Dispute: Customer vs. Members

The case proceeded under the Optional All Public Panel Rule/ All Public Panel

**REPRESENTATION OF PARTIES**

For Claimant Willie C. Grace: W. Scott Greco, Esq., Greco & Greco, P.C., McLean, Virginia.

For Respondent Brookville Capital Partners, LLC, formerly known as New Castle Financial Services, LLC ("Brookville"): Brett D. Zinner, Esq., McLaughlin & Stern, LLP, New York, New York.

For Respondent Andrew Garrett Inc. ("Garrett"): Barry Bordetsky, Esq., Law Offices of Barry M. Bordetsky, Morristown, New Jersey.

For Respondent Spartan Capital Securities, LLC ("Spartan"): Francis M. Curran, Esq., McCormick & O'Brien, LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: February 28, 2011.

Willie C. Grace signed the Submission Agreement: February 25, 2011.

Statement of Answer filed by Respondent Brookville on or about: May 12, 2011.  
Brookville Capital Partners, LLC, formerly known as New Castle Financial Services, LLC signed the Submission Agreement: May 12, 2011.

Statement of Answer filed by Respondent Garrett on or about: June 10, 2011.  
Andrew Garrett Inc. signed the Submission Agreement: June 7, 2011.

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Statement of Answer filed by Respondent Spartan on or about: May 12, 2011.  
Spartan Capital Securities, LLC did not sign the Submission Agreement.

### CASE SUMMARY

Claimant asserted the following causes of action: securities fraud and common law fraud; unsuitable recommendations under Mississippi Law, Federal Law and FINRA Rules; breach of fiduciary duty; breach of contract; negligence, negligent supervision, and negligent misrepresentation; and, Respondents' liability for the actions of their Representatives. The causes of action relate to Claimant's investments in various equities which he maintains were collectively unsuitable for his financial situation, age and retired status.

Unless specifically admitted in its Answer, Respondent Brookville denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in its Answer, Respondent Garrett denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in its Answer, Respondent Spartan denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### RELIEF REQUESTED

In the Statement of Claim, Claimant requested: compensatory damages in the amount of approximately \$300,000.00; interest assessed from 2007 up to the time of payment of the award; opportunity loss of use of investment funds; punitive damages; costs, FINRA fees, and attorneys' fees incurred; and, such other relief as determined by the Panel.

Respondent Brookville requested: denial of Claimant's claims with prejudice; costs, expenses, and attorneys' fees; and, other relief as deemed just and equitable.

Respondent Garrett requested: dismissal of all causes of action; denial of all claims; costs; and, other just relief.

Respondent Spartan requested: dismissal of the Statement of Claim as to Respondent Spartan; that Claimant take nothing; and, reasonable and necessary attorneys' fees and costs.

### OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent Spartan did not file with FINRA Dispute Resolution a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

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On or about September 22, 2011, Claimant filed notice of settlement and dismissal of his claims against Respondent Spartan, with prejudice.

On or about August 15, 2012, Claimant filed notice of settlement and dismissal of his claims against Respondent Garrett, with prejudice.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

### AWARD

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

Respondent Brookville is liable and shall pay to Claimant the following: compensatory damages in the amount of \$80,000.00; interest at a rate of 8.0% per annum from September 11, 2012 until paid; reimbursement of Claimant's expert witness fees in the amount of \$2,930.00; punitive damages in the amount of \$15,000.00 due to Respondent Brookville's reckless disregard of Claimant's rights and as provided by 14 N.Y. Jur., Damages §176 and Le Mistral, Inc. v. Columbia Broadcasting, (1978 1<sup>st</sup> Dept.) 61 A.D.2d 491; and, reimbursement of the non-refundable portion of Claimant's filing fee previously remitted to FINRA Dispute Resolution in the amount of \$300.00.

Any and all relief not specifically addressed herein, including Claimant and Respondent Brookville's requests for attorneys' fees, is denied.

### FEES

Pursuant to the Code, the following fees are assessed:

#### Filing Fees

FINRA Dispute Resolution 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 a parties, Respondents Brookville, Garrett and Spartan are assessed the following:

<u>Respondent Brookville</u>	
Member Surcharge	=\$ 1,700.00
Pre-Hearing Processing Fee	=\$ 750.00
Hearing Processing Fee	=\$ 2,750.00

<u>Respondent Garrett</u>	
Member Surcharge	=\$ 1,700.00

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Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 2,750.00

<u>Respondent Spartan</u>	
Member Surcharge	= \$ 1,700.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 2,750.00

**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) that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: August 25, 2011                      1 session	

Two (2) Hearing sessions @ \$1,125.00/session	= \$2,250.00
Hearing Date: September 11, 2012                      2 sessions	

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<b>Total Hearing Session Fees</b>	<b>= \$3,375.00</b>
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The Panel has assessed the total \$3,375.00 of hearing session fees to Respondent Brookville.

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

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**ARBITRATION PANEL**

Gloria J. Liddell	-	Public Arbitrator, Presiding Chairperson
Douglas E. Miller	-	Public Arbitrator
William Bruce McKinley	-	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**

<u>/s/</u> Gloria J. Liddell Public Arbitrator, Presiding Chairperson	<u>10/20/2012</u> Signature Date
<u>/s/</u> Douglas E. Miller Public Arbitrator	<u>10/21/2012</u> Signature Date
<u>/s/</u> William Bruce McKinley Public Arbitrator	<u>10/23/2012</u> Signature Date


October 23, 2012  
Date of Service (For FINRA Dispute Resolution office use only)

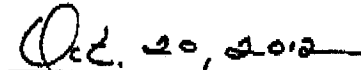
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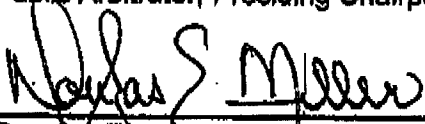
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Douglas E. Miller  
Public Arbitrator

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

*William Bruce McKinley*  
\_\_\_\_\_  
William Bruce McKinley  
Public Arbitrator

*10-23-12*  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
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