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AMERICAN ARBITRATION ASSOCIATION
Consumer Arbitration Rules

In the Matter of the Arbitration between

Shareef Abdou, as Trustee of the Shareef Abdou Family Trust
-vs-
Miracle Mile Advisors, LLC and Brock Moseley

Case Number: 01-17-0000-2401

AWARD OF ARBITRATOR

I, John E. Ohashi, the undersigned arbitrator, having been designated in accordance with the arbitration agreement entered into between the above-named parties and dated December 30, 2014, and having been duly sworn, and having duly heard the proofs and allegations of the parties, each represented by counsel, do hereby, AWARD, as follows:

Background

Respondent Brock Moseley ("Moseley") is a registered investment advisor and a principal of Respondent Miracle Mile Advisors, LLC, a registered investment advisory firm ("MMA"). Claimant Shareef Abdou, as Trustee of the Shareef Abdou Family Trust ("Claimant") entered into an Investment Management Agreement with MMA dated December 30, 2014 ("MMA Agreement"). The MMA Agreement grants MMA discretionary authority; however, in practice, Moseley did not exercise discretion. Claimant has a MBA degree and relevant work and investing experience and is a knowledgeable investor. Moseley provided investment advice and Claimant made investment decisions.

Claimant purchased three (3) notes ("Aequitas Notes"), in varying amounts and maturities in January 2015 issued by Aequitas Commercial Finance LLC ("Aequitas") pursuant to a Private Placement Memorandum and Subscription Agreements ("PPM"). The PPM disclosed that Aequitas, among other things, provided private financing, which included purchasing student loans from Corinthian College ("Corinthian").

Aequitas paid two of the Aequitas Notes upon their maturities. The subject of this arbitration is Aequitas' default of a one (1) year note (purchased in January 2015), in the principal amount of $640,000 with interest at eight percent (8%) ("Defaulted Note"). Upon default the interest rate on the Defaulted Note of 8% increased by 2% (i.e., 10%) until the default is cured.

Debt instruments issued by publicly held companies, with a one year maturity, purchased in January 2015, yielded approximately 0.4% (40 basis points); the Defaulted Note's yield of 8% was twenty times (20x) greater. Moseley attributed the increased yield to default risk. Moseley's investment thesis was that Aequitas' higher yield was an acceptable risk as Aequitas was mitigating the default risk by "successfully working through the Corinthian situation," which meant Aequitas was implementing a plan to diversify out of education assets (Corinthian) into assets in other industries such as healthcare, motorcycles, and leasing businesses.

The Defaulted Note remains unpaid. Claimant asserts various claims against Respondents relating to the Defaulted Note.

Respondents' Liability

Respondents are liable to Claimant for the Defaulted Note based on the following: (1) breach of professional standard of care; and (2) breach of contract.

1. **Breach of Professional Standard of Care**

While evaluating the Aequitas Notes, Claimant received a Supplement to the PPM ("PPM Supplement") dated October 16, 2014 that disclosed that Corinthian: (1) represented 19% of Aequitas' consolidated assets; and (2) was in default of its obligations to Aequitas to repurchase non-performing student loans. Moseley knew that Claimant was very concerned about the disclosures in the PPM Supplement and that Claimant was at the limit of his risk tolerance regarding the purchase of the Aequitas Notes. Moseley arranged a conference call with himself, Claimant, and Aequitas' CEO, Robert Jesenick, to discuss the disclosures in the PPM Supplement. After the conference call, Claimant and Moseley had a further discussion and based on the information then available to him, Claimant decided to purchase the Aequitas Notes.

In light of Claimant's specific circumstances, including Claimant's concerns of the Aequitas Notes and Claimant's burden of making final investment decisions, Moseley's professional standard of care required him to inform Claimant and discuss all material information regarding the proposed Aequitas investment that was within Moseley's knowledge, especially any information that would or could reflect on the default risk of the Aequitas Notes. Material information included information that Moseley knew about Aequitas outside of the PPM.

Respondents failed to communicate material information to Claimant in the following instances:

a. In an email from Aequitas to Moseley dated December 28, 2014, (before Claimant's purchase of Aequitas Notes), Aequitas expressed its desire to "dress up our year-end balance sheet by reporting a significant excess cash position at year end." In this regard, Aequitas offered "an additional 1% incentive for investment [*by Claimant*] funded by 12/30 and an additional 1% if the investment amounts $5MM+." The proposed incentives could have increased the yield on the Defaulted Note from 8% to 10%. Nothing in the PPM discloses Aequitas' right to offer incentives for increased investor yields for the purpose of dressing up its balance sheet. Claimant's expert opined that Aequitas' incentive offer was highly unusual and a "red flag" that Aequitas had significant cash flow issues, which was also indicative of a "ponzi" scheme. Moseley never informed Claimant of Aequitas' email.

b. After Claimant executed Subscription Agreements, but before the Aequitas Notes closed, Moseley received notice of TD Ameritrade's ("TD") intent to discontinue as Custodian of Aequitas' notes. Moseley testified that custodial firms often change custodial platforms and that he was not concerned about the reasons for TD's withdrawal, whether based upon TD's internal administrative reasons or regulatory/compliance concerns that TD had relating to Aequitas or its business.

Claimant's Aequitas Notes were "grandfathered in" and TD served as custodian. TD withdrew as Custodian for the Defaulted Note in October 2015 stating that "TD Ameritrade has made the decision to resign as custodian for these alternative asset(s). The decision is based upon a business risk reassessment regarding holding alternative assets in custody for client accounts." Claimant believed that TD's withdrawal related directly to TD's concerns of a risk in the Aequitas Notes and not due to any TD operational concern. Claimant testified that, had he known, he would have considered TD's decision in January 2015 to withdraw as Custodian of Aequitas notes as material information in deciding whether to continue with his purchase of Aequitas Notes. It is credible that TD's impending withdrawal in January 2015 could have been material to Claimant.

Claimant may not have changed his decision to invest in the Aequitas Notes if he had the foregoing information; however, that information should have been provided by Moseley to Claimant.

2. Breach of Contract.

The MMA Agreement undertook "continuous and regular account supervision." MMA did not fulfill its undertaking in the following instances:

a. There was an email exchange on February 6, 2015 (after Claimant's purchase of Aequitas Notes), between Moseley and Brian Oliver, Aequitas' Executive Vice President, regarding Corinthian's agreement to forgive $480 million in student loans and concerns that such action could affect Aequitas' ability to repay the Aequitas Notes. Aequitas acknowledged Moseley's concern and raised the prospect of an early redemption for Claimant's Aequitas Notes. Moseley testified that he did not explore the early redemption issue with Aequitas or communicate it to Claimant because Moseley "stood behind the investment." Moseley should have informed Claimant of the early withdrawal comment and let the Claimant decide how to respond, if at all.

b. Moseley testified that he based his analysis of Aequitas on its audited December 31, 2013 financials. Moseley repeatedly asked Aequitas for its interim financial statements dated September 30, 2014 ("Interim Statement") but was told that he would receive it when it was available to the investment community. Moseley received the Interim Statement in January 2015 after Claimant had already purchased the Aequitas Notes.

Claimant's expert opined that the Interim Statement should have been available much earlier than January 2015 and that Moseley should have insisted on receiving it to update his due diligence of the Aequitas Notes before Claimant's purchase. There was evidence that suggested that Aequitas had provided the Interim Statement to an unrelated third party for purposes of conducting an independent due diligence analysis of Aequitas before January 2015.

Claimant's expert opined that the Interim Statement reflects that Corinthian represented 24% of Aequitas' consolidated assets, an increase from the 19% concentration disclosed in the PPM Supplement. The increase in Corinthian assets contradicted Moseley's investment thesis that Aequitas' asset concentration in Corinthian would decrease from the 19% concentration stated in the PPM Supplement and be replaced with increased asset allocations in other business lines. Further, Claimant's expert analyzed the interim balance sheet and opined that it showed that as of September 30, 2014 (3 months before Claimant's purchase) Aequitas had negative debt coverage. Neither of the foregoing was disclosed in the PPM.

Notwithstanding when Moseley actually received the Interim Statement, Moseley should have reviewed the Interim Statement to see if it affirmed or contradicted his investment thesis. No evidence was introduced that Moseley conducted any such review, or, if he did, discussed it with Claimant.

No Securities Laws Violations or Breach of Fiduciary Duty.

All accusations and claims that Respondents Moseley or MMA engaged in any act or omission that violated any Securities Laws or engaged in fraudulent, deceptive, or manipulative conduct against Claimant are expressly rejected and denied in their entirety. There is no finding that Respondents breached any fiduciary duty to Claimant.

Damages.

Respondents, joint and severally, shall pay Claimant the principal sum of Six Hundred Forty Thousand Dollars ($640,000.00) plus interest, commencing accrual as of January 13, 2016, at the rate of 10% simple interest based on a 365 days/year ($175.35 daily rate), until paid.

Costs and Fees.

The parties shall bear their own fees and costs in connection with this Arbitration, including but not limited to attorneys' fees, filing fees, costs of investigation, discovery, and retention of experts.

The administrative fees of the American Arbitration Association totaling $2,400, the hearing room rental fees totaling $1,200, the compensation of the arbitrator totaling $7,500 and the travel expenses of the arbitrator totaling $128.75 shall be borne as incurred by the parties.

This Award is in full settlement of all claims submitted to this Arbitration. All claims not expressly granted herein are hereby denied.

Dated: June 13, 2018

John E. Ohashi, Arbitrator