

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

ENE-TEA BLOOM, *et al.*,

Plaintiffs,

V.

CAPITAL FINANCIAL  
SERVICES, INC., *et. al.*,

Defendants.

CIVIL ACTION NO.  
1:19-CV-04666-LMM

**PLAINTIFFS' APPLICATION FOR CONFIRMATION OF ARBITRATION  
AWARD AND ENTRY OF FINAL ORDER AND JUDGMENT**

This is an action to recover funds that were stolen in a Ponzi scheme.

Plaintiffs Ene-Tea Bloom, Linda Brooks, Dorothy Crosbie, John Crosbie, Kevin Harden, Aprile Holland, Charles Lumsden, Jane Thompson, Suzana Williams, and William Farrelly (“Plaintiffs” or, in FINRA proceedings, “Claimants”)<sup>1</sup> originally filed this action in this Court against Capital Financial Services, Inc. (“Capital Financial”), its sole owner and corporate parent, Capital Financial Holdings, Inc.

1 Three of these Plaintiffs have died since the case was filed, and a motion is being filed contemporaneously with this one to substitute the appropriate estate representatives as plaintiffs.

(“Capital Financial Holdings”), and Gordon Douglas Dihle, Bart James Bohrer, and Donald Robert Pollard, each of whom are current or former officers of the Capital Financial entities and control persons of Capital Financial (“Defendants” or, in FINRA proceedings, “Respondents”). Plaintiffs seek to recover funds that were stolen by Sean Kelly, a Capital Financial registered representative.

By Order dated April 17, 2020, this Court granted Defendants’ request to compel arbitration before FINRA Dispute Resolution Services (“FINRA”) and stayed this action pending the outcome of those proceedings. (Doc. 32.) That FINRA arbitration resulted in an Award in Plaintiffs’ favor. Plaintiffs now apply to the Court pursuant to Sections 9 and 13 of the Federal Arbitration Act, 9 U.S.C. §§ 1, *et seq.* (“FAA”) for an Order confirming and enforcing the arbitration Award (“Arbitration Award”) issued by Arbitrators Joe E. Manuel, Larry Kenneth Lott, and Larry R. Armstrong on October 29, 2021 in FINRA Case Number 20-02358 (the “Arbitral Proceeding”). A copy of the Arbitration Award is filed herewith as Exhibit 1.

The FINRA panel specifically determined that all Defendants were subject to FINRA’s jurisdiction. Arbitration Award at 2-4. *See also* Doc. 51 (Order dated July 23, 2021). This Court has jurisdiction to confirm the Arbitration Award because, *inter alia*, no court is specified in the parties’ arbitration agreement (a sample of which is attached as Exhibit 2), and the Arbitration Award was made within the

Northern District of Georgia, Atlanta Division. 9 U.S.C. § 9. The Arbitral Proceeding was handled out of the Atlanta office of FINRA, and the Final Hearing was held in Decatur, Georgia.<sup>2</sup>

FINRA rules provide that monetary awards are to be paid within 30 days of receipt. *See* FINRA correspondence dated October 29, 2021 (attached as Exhibit 3). That 30-day period expired this Monday, November 29, 2021, with Defendants failing to make any payment. As requested by FINRA, Plaintiffs provided written notice of Defendants' noncompliance the following day (*i.e.*, yesterday), and now

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<sup>2</sup> Specifically, Section 9 of the FAA provides in pertinent part as follows:

If the parties in their agreement have agreed that a judgment of the court shall be entered upon the award made pursuant to the arbitration, and shall specify the court, then at any time within one year after the award is made any party to the arbitration may apply to the court so specified for an order confirming the award, and thereupon the court must grant such an order unless the award is vacated, modified, or corrected as prescribed in sections 10 and 11 of this title. If no court is specified in the agreement of the parties, then such application may be made to the United States court in and for the district within which such award was made.

Section 13 further provides that an order confirming, modifying, or correcting an award may be "filed with the clerk for the entry of judgment thereon," and "judgment so entered shall have the same force and effect, in all respects, as, and be subject to all the provisions of law relating to, a judgment in an action." 9 U.S.C. § 13.

apply to this Court for entry of the Arbitration Award as a Final Order and Judgment of the Court in accordance with 9 U.S.C. §§ 9 and 13.

Plaintiffs would be happy to provide any further information or briefing that the Court may request, but in light of the record before the Court, and 9 U.S.C. §§ 9 and 13, Plaintiffs move for entry of the October 29, 2021 Arbitration Award, attached as Exhibit 1, as the Final Order and Judgment in this case.

Respectfully submitted this 1<sup>st</sup> day of December, 2021.

*/s/ David A. Bain*

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**Local Rule 7.1D Certification**

Counsel for Plaintiffs hereby certifies that the text of this memorandum has been prepared with Times New Roman 14 point, one of the fonts and point selections approved by the Court in Local Rule 5.1C.

/s/ David A. Bain

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### **CERTIFICATE OF SERVICE**

I hereby certify that on this 1<sup>st</sup> day of December, 2021 I have electronically filed the above and foregoing PLAINTIFFS' APPLICATION FOR CONFIRMATION OF ARBITRATION AWARD AND ENTRY OF FINAL ORDER AND JUDGMENT with the Clerk of the Court using the CM/ECF system, which will automatically serve a copy on the following counsel for Defendants:

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