

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

---

In the Matter of the Arbitration Between:

Claimant  
Tracy Driver

Case Number: 24-00007

vs.

Respondents  
USCA Securities LLC,  
Patrick Mendenhall,  
Matthew West,  
U.S. Capital Wealth Advisors, LLC,  
USCA RIA, LLC, and  
U.S. Capital Advisors LLC

Hearing Site: Houston, Texas

---

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. Member, Associated Persons, and Non-Members

This case was decided by a majority-public panel.

**REPRESENTATION OF PARTIES**

For Claimant Tracy Driver (“Claimant”): Wesley G. Lotz, Esq., Lotz Law Firm PLLC, Houston, Texas.

For Respondents USCA Securities LLC (“USCA Securities”), Patrick Mendenhall (“Mendenhall”), Matthew West (“West”), U.S. Capital Wealth Advisors, LLC (“USCW”), USCA RIA LLC (“USCA RIA”), and U.S. Capital Advisors LLC (“USCA”), hereinafter, collectively, “Respondents”: Paul D. Flack, Esq., Pratt & Flack LLP, Houston, Texas.

**CASE INFORMATION**

Statement of Claim filed on or about: December 29, 2023.

Claimant signed the Submission Agreement: December 29, 2023.

Statement of Answer filed by Respondents on or about: March 4, 2024.

USCA Securities, USCW, USCA RIA, and USCA signed the Submission Agreement: March 4, 2024.

Mendenhall and West signed the Submission Agreement: March 6, 2024.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty, fraud, unsuitability, unauthorized trading, failure to properly supervise, conflicts of interest, negligence, negligent misrepresentation, gross negligence, and unjust enrichment. The causes of action related to Claimant's allegation that USCA, Mendenhall, and West recommended that Claimant invest millions of dollars in a fraudulent Indian media and entertainment company, Eros International ("Eros"). Claimant alleged that USCA sold hundreds of thousands of dollars of Claimant's Nvidia, Apple, Microsoft, Alphabet, Verve, and Nasdaq tech stocks, without Claimant's approval; that USCA's options trading strategy caused additional Nvidia shares to be called away in 2023, causing Claimant to miss out on substantial gains; that USCA failed to properly manage or supervise the accounts, recommended unsuitable stocks, breached fiduciary duties to Claimant, and failed to act in Claimant's best interest; and that Claimant lost millions of dollars, as a result of USCA's gross mismanagement, breach of fiduciary duty, and wrongful conduct.

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

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested the following:

- (a) Actual damages, estimated to be in excess of \$3,000,000.00, including: (a) all losses associated with Eros; (b) losses related to the sale of Nvidia stock including the gains that would have been earned if Claimant's Nvidia and Nasdaq stocks were not sold or called away; (c) the gains Claimant would have earned had USCA properly managed the account and/or invested in a well-managed portfolio consistent with his actual investment objectives and risk tolerance; (d) loss or diminution in value compared to gains a reasonable and prudent investment strategy would have yielded; and (e) any other loss related to mismanagement of Claimant's accounts at USCA, its affiliates, successors and assigns;
- (b) Disgorgement of all management fees, commissions, bonuses, and benefits received by USCA, West, and their affiliates;
- (c) Award of all costs and expenses, including FINRA fees, filing fees, hearing fees, administrative fees, arbitrator fees, expert fees, and other costs and expenses;
- (d) Attorneys' fees;
- (e) Punitive damages or exemplary damages;
- (f) Pre-judgment and post-judgment interest and pre-award and post-award interest, at the maximum rate allowed by law; and
- (g) All other relief to which Claimant is justly entitled.

In the Statement of Answer, Respondents requested that Claimant's claims be dismissed with prejudice; attorneys' fees, costs, and expenses incurred in this action; and all other relief the Panel deems appropriate.

Mendenhall and West filed a request for expungement of all references to Occurrence Numbers 2306325 and 2306324 from Central Registration Depository ("CRD") registration records (CRD

Numbers 1068809 and 2554449). Please see the Other Issues Considered and Decided section of this Award for more information.

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

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

On July 31, 2024, Mendenhall and West filed a Motion for Expungement, to which no response was filed.

The parties had the opportunity to present oral argument and evidence on Mendenhall's and West's request for expungement at the evidentiary hearing. Mendenhall and West and Respondents' representative participated in person at the evidentiary hearing.

### **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. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$1,706,286.00 for out-of-pocket damages in connection with Eros stock.
2. Respondents are jointly and severally liable for and shall pay to Claimant interest on the above-stated sum at the rate of 7.50% per annum consistent with the Texas Finance Code, from the date of the issuance of this Award through and including the date the Award is paid in full.
3. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$139,369.01 in costs and expenses.
4. Respondents are jointly and severally liable for and shall pay to Claimant attorneys' fees. Attorneys' fees shall consist of the total of \$212,015.75, plus 20% of the total award amount. The total award amount shall be calculated after rescission of the Microsoft and Google stock sales set forth herein. Specifically, the contingency amount shall be based on the price of the stock at rescission, less the price on the dates of sale on 10/7/2022 and 10/14/2022. If the price at rescission is an increase over the sale price, the improved value amount shall be added to the total award amount for purposes of calculating the 20% amount of attorneys' fees. If the price at rescission is a decrease from the sale price, the decreased value amount shall not be added to the total award amount for purposes of calculating the 20% amount of attorneys' fees. An accounting and payment of such fees shall be provided to Claimant's counsel by no later than 5:00 p.m. CT on or before the 45th calendar day from the date of this Award. In the event the 45th day falls on a weekend, the deadline shall be the following Monday. In the event the 45th day falls on a state or federal holiday, the deadline shall be the following day. The Panel further finds that, in the event Respondents file a motion or application to vacate the award, an additional \$30,000 in fees would be reasonable and necessary through confirmation and entry of judgment. If an appeal to the

court of appeals is filed, an additional \$30,000 in fees would be reasonable and necessary in the event of an appeal to the Court of Appeals. If a petition for review is filed with the Supreme Court of Texas, and additional \$5,000 would be a reasonable and necessary attorney fee at the petition for review stage, with an additional \$25,000 for merits briefing if the petition is granted, and \$15,000 for oral argument and completion of proceedings in the Texas Supreme Court. The suggested fees in this paragraph are solely recommendations. It will be up to the reviewing panel or court to make a determination as to whether fees should be awarded and in what amount. Attorneys' fees are awarded pursuant to Tex. Gov't Code §§4008.060, 4008.103; Tex. Bus. & Com Code §27.01(e); and Tex. Prac. & Rem. Code §38.001. In addition to the foregoing, the FINRA Arbitrator's Guide provides that the FINRA arbitration panel "may award attorneys' fees when, for example, 1) the parties' contract includes a clause that provides for attorneys' fees; 2) the governing law provides for attorneys' fees when all of the parties' request or agree to such fees; 3) the fees are required or permitted as part of a statutory claim; or 4) as otherwise provided by law."

5. The Panel orders that all fees and commissions paid to or received by Respondents in connection with Google and Microsoft stock bought, held, or sold on behalf of Claimant are to be disgorged in full. An accounting and payment of such fees and commissions shall be provided to Claimant's counsel by no later than 5:00 p.m. CT on or before the 30th calendar day from the date of this Award. In the event the 30th day falls on a weekend, the deadline shall be the following Monday. In the event the 30th day falls on a state or federal holiday, the deadline shall be the following day.
6. The Panel awards rescission of the 500 shares of Microsoft stock sold on 10/07/22 and the 500 shares of Microsoft stock sold on 10/14/22. Respondents shall transfer a total of 1,000 shares of Microsoft stock to Claimant by no later than 5:00 p.m. CT on or before the 30th calendar day from the date of this Award. In the event the 30th day falls on a weekend, the deadline shall be the following Monday. In the event the 30th day falls on a state or federal holiday, the deadline shall be the following day.
7. The Panel awards rescission of the 1,000 shares of Google stock sold on 10/07/22 and the 1,000 shares of Google stock sold on 10/14/22. Respondents shall transfer a total of 2,000 shares of Google stock to Claimant by no later than 5:00 p.m. CT on or before the 30th calendar day from the date of this Award. In the event the 30th day falls on a weekend, the deadline shall be the following Monday. In the event the 30th day falls on a state or federal holiday, the deadline shall be the following day.
8. Respondents are jointly and severally liable for and shall pay to Claimant \$625.00 to reimburse Claimant for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.
9. Mendenhall's and West's request for expungement of Occurrence Numbers 2306325 and 2306324 from registration records maintained by the CRD is denied.
10. Any and all claims for relief not specifically addressed herein 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	= \$ 2,025.00
Expungement Filing Fee (Mendenhall)	= \$ 1,600.00
Expungement Filing Fee (West)	= \$ 1,600.00

*\*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 party, USCA Securities is assessed the following:

Member Surcharge	= \$ 3,200.00
Member Process Fee	= \$ 6,375.00

### **Discovery-Related Motion Fees**

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision	= \$ 200.00
---	-------------

Respondents submitted one (1) discovery-related motion

---

Total Discovery-Related Motion Fees	= \$ 200.00
-------------------------------------	-------------

The Panel has assessed the total discovery-related motion fees jointly and severally to Respondents.

### **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 a single Arbitrator @ \$450.00/session	= \$ 450.00
Pre-Hearing Conference: March 7, 2025	1 session

One (1) pre-hearing session with the Panel @ \$1,435.00/session	= \$ 1,435.00
Pre-Hearing Conference: April 29, 2024	1 session

Fifteen (15) hearing sessions @ \$1,435.00/session	= \$ 21,525.00
Hearings:	
April 7, 2025	3 sessions
April 8, 2025	2 sessions
April 9, 2025	2 sessions
April 10, 2025	3 sessions
April 11, 2025	3 sessions

April 14, 2025

2 sessions

---

Total Hearing Session Fees	= \$ 23,410.00
----------------------------	----------------

The Panel has assessed the total hearing session fees jointly and severally to Respondents.

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

**ARBITRATION PANEL**

David Aaron DeSoto	-	Public Arbitrator, Presiding Chairperson
Stanley Santire	-	Public Arbitrator
David Schiff Siegel	-	Non-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**

**David Aaron DeSoto**

David Aaron DeSoto  
Public Arbitrator, Presiding Chairperson

**06/03/2025**

Signature Date

**Stanley Santire**

Stanley Santire  
Public Arbitrator

**06/03/2025**

Signature Date

**David Schiff Siegel**

David Schiff Siegel  
Non-Public Arbitrator

**06/02/2025**

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.

June 03, 2025

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