

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Michael Tartaglione (Claimant) vs. American Capital Partners, LLC (Respondent)

Case Number: 09-02523

Hearing Site: New York, New York

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Claimant Michael Tartaglione hereinafter referred to as "Claimant": Christopher J. Gray, Esq., Christopher J. Gray, P.C., New York, NY.

Respondent American Capital Partners, LLC hereinafter referred to as "Respondent": John J. Kilkenny, Esq., American Capital Partners, LLC, Hauppauge, NY. Previously represented by J. Christopher Albanese, Esq., American Capital Partners, LLC, Hauppauge, NY.

CASE INFORMATION

Statement of Claim filed on or about: May 5, 2009.

Claimant signed the Uniform Submission Agreement: April 24, 2009.

Statement of Answer filed by Respondent on or about: June 29, 2009.

Respondent signed the Submission Agreement: June 26, 2009.

CASE SUMMARY

Claimant asserted the following causes of action: overconcentration, unsuitability, mismanagement of account in violation of FINRA Rule 2310 and New York Stock Exchange Rule 405, breach of fiduciary duty, negligence, breach of contract, fraud, and failure to supervise. The causes of action relate to the purchases and margin purchases of ARRIS stock and options.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested unspecified compensatory damages, including disgorgement, lost profits and income, prejudgment interest, fees, costs, attorneys' fees, and such other and further relief as the Arbitration Panel deems just and proper.

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Respondent requested Claimant's claims be dismissed with prejudice and such other and further relief as the Panel deems just, equitable, and proper.

OTHER ISSUES CONSIDERED AND DECIDED

The Panel acknowledges that they have each read the pleadings and other materials filed by the parties.

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, the Panel 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 compensatory damages in the amount of \$232,000.00 plus interest at the rate of 9% per annum from September 1, 2008 until the Award is paid in full.
2. Any and all relief not specifically addressed herein 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 = \$1,250.00

**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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, American Capital Partners, LLC is assessed the following:

Member surcharge = \$1,500.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,200.00

Discovery-Related Motion Fees

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

Two (2) Decisions on discovery-related motions on the papers
 with one (1) arbitrator @ \$200.00 = \$ 400.00

Respondent submitted two (2) discovery-related motions

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Total Discovery-Related Motion Fees = \$ 400.00

1. The Panel has assessed \$200.00 of the discovery-related motion fees to Claimant.
2. The Panel has assessed \$200.00 of the discovery-related motion fees to Respondent.

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00
 Pre-hearing conference: January 14, 2010 1 session

One (1) Pre-hearing session with Panel @ \$1,000.00 = \$1,000.00
 Pre-hearing conference: September 29, 2009 1 session

Seven (7) Hearing sessions @ \$1,000.00 = \$7,000.00
 Hearing Dates: March 9, 2010 2 sessions
 March 10, 2010 2 sessions
 April 6, 2010 2 sessions
 April 7, 2010 1 session

Total Hearing Session Fees = \$8,450.00

1. The Panel has assessed \$4,225.00 of the hearing session fees to Claimant.
2. The Panel has assessed \$4,225.00 of the hearing session fees to Respondent.

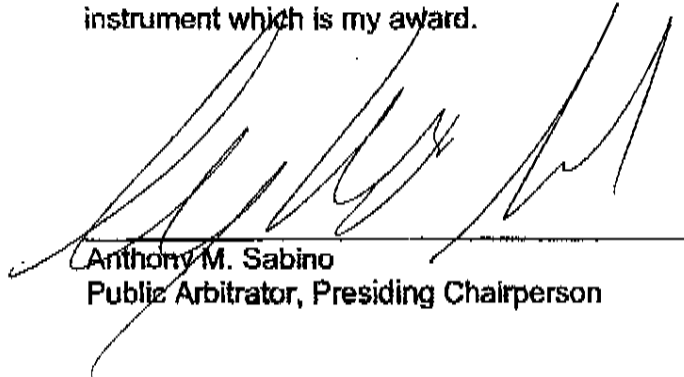
All balances are payable to FINRA Dispute Resolution and are due upon receipt.

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ARBITRATION PANEL

Anthony M. Sabino	-	Public Arbitrator, Presiding Chairperson
David S. Billet	-	Public Arbitrator
Robert W. Kenter	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Anthony M. Sabino
Public Arbitrator, Presiding Chairperson

4-13-10

Signature Date

David S. Billet
Public Arbitrator

Signature Date

Robert W. Kenter
Non-Public Arbitrator

Signature Date

April 20, 2010
Date of Service (For FINRA Dispute Resolution use only)

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David S. Billet	-	Public Arbitrator
Robert W. Kenter	-	Non-Public Arbitrator

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Anthony M. Sabino
Public Arbitrator, Presiding Chairperson

Signature Date



David S. Billet
Public Arbitrator

Signature Date

Robert W. Kenter
Non-Public Arbitrator

Signature Date

April 20, 2010
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ARBITRATION PANEL

- Anthony M. Sabino - Public Arbitrator, Presiding Chairperson
- David S. Billet - Public Arbitrator
- Robert W. Kenter - Non-Public Arbitrator


I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Anthony M. Sabino
Public Arbitrator, Presiding Chairperson

Signature Date

David S. Billet
Public Arbitrator

Signature Date



Robert W. Kenter
Non-Public Arbitrator

4/15/10

Signature Date

April 20, 2010

Date of Service (For FINRA Dispute Resolution use only)



VIA MAIL AND FACSIMILE

April 20, 2010

COPY -- SEE RECIPIENT LIST

Subject: FINRA Dispute Resolution Arbitration Number 09-02523
Michael Tartaglione vs. American Capital Partners, LLC

Dear Mr. Kilkenny:

An arbitration Panel issued the enclosed award ordering you, or your client(s), to pay monetary damages or provide other relief to a party in the above-referenced matter.

Please be aware that the Code of Arbitration Procedure¹ provides as follows:

All monetary awards shall be paid within thirty (30) days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction. An award shall bear interest from the date of the award: (1) if not paid within thirty (30) days of receipt, (2) if the award is the subject of a motion to vacate which is denied, or (3) as specified by the arbitrator(s) in the award. Interest shall be assessed at the legal rate, if any, then prevailing in the state where the award was rendered, or at a rate set by the arbitrator(s).

FINRA Dispute Resolution has implemented a system of monitoring and tracking compliance with arbitration awards by members and associated persons. Therefore, we request prevailing claimants to notify us in writing when their awards have not been paid within 30 days of receipt of the award, and require member firms to certify in writing that they have complied with awards against them or their associated persons.

Members must notify FINRA Dispute Resolution in writing, within 30 days of receipt of the award, whether or not they or their associated persons have complied with the award. The 30-day period ends on: May 20, 2010 Associated persons who have changed employment since the arbitration claim was filed are required to notify FINRA Dispute Resolution directly regarding the payment status of any awards against them. Please review Notice to Members 00-55 for more information on the notification requirement and the sanctions for noncompliance.

All awards are **final** and are not subject to review or appeal by the arbitration panel or by FINRA Dispute Resolution. Any party wishing to challenge the award must make a motion to vacate the

¹Customer Code Rule 12904(i)
Industry Code Rule 13904(i)
Old Code Rule 10330(h)

award in a federal or state court of appropriate jurisdiction pursuant to the Federal Arbitration Act, 9 U.S.C. § 10, or applicable state statute. There are limited grounds for vacating an arbitration award, and a party must bring a motion to vacate within the time period specified by the applicable statute. Parties and counsel should consult federal and state statutes and case law to determine the appropriate court, standards, and time limitations in their individual circumstances. A motion to vacate, confirm, or modify an arbitration award is a matter only between the parties to the arbitration. FINRA Dispute Resolution is not a proper party to post-award motions and should not be named as a party to any post-award motion.

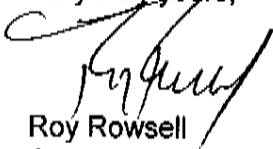
Please direct any questions regarding this award to me. **The parties must not contact the arbitrators directly.**

Please forward any questions or correspondence concerning the monitoring and tracking of arbitration awards and/or payment of awards to:

Avichai Badash
FINRA Dispute Resolution
One Liberty Plaza
165 Broadway, 52nd floor
New York, NY, 10006

You may also contact him by telephone at 212-858-4325, fax at 301-527-4739, or e-mail at avichai.badash@finra.org.

Very truly yours,



Roy Rowsell
Case Administrator
Phone: 212-858-5288
Fax: 301-527-4805
NEProcessingCenter@finra.org

RR:clo: LC09X
idr: 09/16/2009

CC:

Christopher J. Gray, Esq., Michael Tartaglione
Law Offices of Christopher J. Gray, P.C., 460 Park Avenue, 21st Floor, New York, NY
10022

RECIPIENTS:

John Kilkenny, Esq., American Capital Partners, LLC
American Capital Partners, LLC, 205 Oser Ave, Hauppauge, NY 11788