

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Anthony C. Scala (Claimant) v. Barclays Capital (Respondent)

Case Number: 03-00854

Hearing Site: New York, New York

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Nature of the Dispute: Associated Person vs. Member.

**REPRESENTATION OF PARTIES**

Claimant Anthony C. Scala ("Scala") hereinafter referred to as "Claimant": Robert M. Rosen, Esq., Rosen, Leff Attorneys, Hempstead, NY.

Respondent Barclays Capital ("Barclays") hereinafter referred to as "Respondent": Jason Habinsky, Esq., Hughes Hubbard & Reed, LLP, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: February 4, 2003.

Claimant signed the Uniform Submission Agreement: December 26, 2002.

Statement of Answer filed by Respondent on or about: April 30, 2003.

Respondent signed the Uniform Submission Agreement: April 28, 2003.

**CASE SUMMARY**

Claimant asserted the following cause of action: wrongful termination.

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

**RELIEF REQUESTED**

Claimant requested back pay, front pay, emotional distress damages, attorneys' fees, costs and disbursements, and such other and further relief as an Arbitrator deems just and proper.

Respondent requested that the Panel dismiss the Statement of Claim in its entirety, award its costs and attorneys' fees it may incur in this action, and grant such other, further or different relief as the Panel may deem just and proper.

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

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety.
2. Respondent is solely liable for and shall pay to Claimant the sum of \$250.00 to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
3. Any and all relief not specifically addressed herein is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 250.00
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#### **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, Barclays Capital is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,200.00

#### **Forum Fees and Assessments**

The Panel has assessed forum 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 Panel @ \$1,000.00	= \$1,000.00
Pre-hearing conference: October 9, 2003 1 session	

Two (2) Hearing sessions @ \$1,000.00	= \$2,000.00
Hearing Date: March 9, 2004      2 sessions	
Total Forum Fees	= \$3,000.00

The Panel has assessed all of the forum fees against Respondent.

**Fee Summary**

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 250.00
Total Fees	= \$ 250.00
<u>Less payments</u>	= \$1,250.00
Refund Due Claimant	= \$1,000.00

*As stated in the "Award" section above, Respondent is solely liable for and shall reimburse Claimant for the filing fee.*

2. Respondent is solely liable for:

Member Fees	= \$4,450.00
Forum Fees	= \$3,000.00
Total Fees	= \$7,450.00
<u>Less payments</u>	= \$4,450.00
Balance Due NASD Dispute Resolution	= \$3,000.00


All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Joseph H. Cerame, Esq.	-	Public Arbitrator, Presiding Chair
Robert E. Anderson, Esq.	-	Public Arbitrator
Rick F. Suppa	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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.

  
\_\_\_\_\_  
Joseph H. Cerame, Esq.  
Public Arbitrator, Presiding Chairperson

4-21-04  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Robert E. Anderson, Esq.  
Public Arbitrator

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

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Rick F. Suppa  
Non-Public Arbitrator

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Signature Date

4/28/04  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)

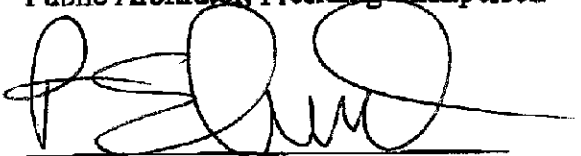
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