

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Douglas H. Stark

and

Case Number: 05-02631
Hearing Site: Troy, Michigan

Respondents

Basic Investors, Inc., American Capital
Partners LLC, Michael W. Stephani, and
Mathew J. Ferber, Sr.

NATURE OF DISPUTE

Customer v. Members and Associated Persons

REPRESENTATION OF PARTIES

Douglas H. Stark ("Claimant") was represented by Anthony V. Trogan, Jr., Esq., Anthony V. Trogan PLLC, West Bloomfield, Michigan.

Basic Investors, Inc. ("Basic") was represented by Charles M. O'Rourke, Esq., Woodbury, New York.

American Capital Partners LLC ("American"), Michael W. Stephani ("Stephani"), and Mathew J. Ferber, Sr. ("Ferber") were represented by J. Christopher Albanese, Esq., American Capital Partners, L.L.C., Hauppauge, New York.

CASE INFORMATION

The Statement of Claim was filed on or about May 18, 2005. The Submission Agreement of Douglas H. Stark was signed on or about May 7, 2005.

The Statement of Answer was filed by Basic on or about July 9, 2005. The Submission Agreement of Basic was signed on or about June 23, 2005, by Thomas Landrie, President.

The Statement of Answer was filed jointly by American, Stephani, and Ferber on or about August 12, 2006.

CASE SUMMARY

Claimant asserted the following legal theories in support of his claims: breach of contract, common law fraud, promissory estoppel, negligence, malpractice, breach of fiduciary duty, and breach of Michigan securities law. The causes of action related to Claimant's allegations that Respondents violated their responsibility to Claimant by recommending transactions that were unsuitable given his circumstances and conservative investment objectives. Claimant asserted that Respondents recommended and sold Claimant unspecified high risk tech securities on margin, including short positions and transactions in penny shares.

Unless specifically admitted in its Answer, Basic denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim should be dismissed because it fails to state a claim; Claimant was contributorily negligent; the Statement of Claim is barred by the doctrines of waiver and laches; Claimant voluntarily assumed the risk of loss by pursuing a speculative investment objective; and all claims are barred by the applicable statute of limitations.

Unless specifically admitted in their Answer, American, Stephani, and Ferber, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant fails to state a claim upon which relief can be granted; Claimant is barred from recovery be reason of his failure to timely object to the transactions complained of as required by contractual language set forth in the various documents received by Claimant subsequent to each transaction and signed prior to opening Claimant's accounts; and any losses suffered by Claimant are the result of market losses and Clamant is not entitled to recovery thereof from Respondents.

RELIEF REQUESTED

Claimant requested:

Compensatory damages	\$ 117,000.00
Punitive/ Exemplary Damages	\$ unspecified
Interest	\$ unspecified
Attorneys' Fees	\$ unspecified
Other Costs	\$ unspecified
Other Monetary/Non-Monetary Relief:	\$ unspecified

Basic requested that the claims asserted against it be dismissed in their entirety and that it be awarded its costs, expenses and attorneys' fees.

American, Stephani, and Ferber requested that the claims asserted against them be denied in their entirety and that they be dismissed from this action, and that they be awarded their costs and fees.

OTHER ISSUES CONSIDERED & DECIDED

American Capital Partners LLC, Michael W. Stephani, and Mathew J. Ferber, Sr., did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, and appeared at the pre-hearing conferences through counsel are bound by the determination of the arbitration panel on all issues submitted.

At the hearing, Claimant advised the panel that his claims against Respondents American Capital Partners LLC, and Michael W. Stephani and Mathew J. Ferber, Sr., during their tenure at American, had been settled. The panel did not adjudicate any claims against American Capital Partners LLC, and Michael W. Stephani and Mathew J. Ferber, Sr., during their employment at American.

At the hearing, Claimant moved for sanctions against Basic for its alleged failure to provide discovery. The panel denied the motion.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's claims against Basic Investors, Inc., Michael W. Stephani, and Mathew J. Ferber, Sr., for the period of their employment at Basic, are *denied and dismissed with prejudice*;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3.) Any relief not specifically enumerated, including punitive/exemplary damages and attorneys' fees, is hereby denied with prejudice.

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 = \$ 300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firms are Basic Investors, Inc., and American Capital Partners LLC.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each hearing session conducted and each decision rendered on a discovery-related motion on the papers. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Decision on Basic Investors, Inc.'s discovery-related motion on the papers with one (1) arbitrator @ \$200.00	= \$ 200.00
One (1) Pre-hearing session with a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conference: June 12, 2006 1 session	
One (1) Pre-hearing session with Panel x \$1,125.00	= \$ 1,125.00
Pre-hearing conference: November 15, 2005 1 session	
Two (2) Hearing sessions x \$1,125.00	= \$ 2,250.00
Hearing Date: June 27, 2006 2 sessions	
Total Forum Fees	= \$ 4,025.00

The Arbitration Panel has assessed \$2,012.50 of the forum fees to Douglas H. Stark.

The Arbitration Panel has assessed \$ 2,012.50 of the forum fees to Basic Investors, Inc.

Fee Summary

Claimant, Douglas H. Stark, is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 2,012.50</u>
Total Fees	= \$ 2,312.50
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 887.50

Respondent, Basic Investors, Inc., is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 2,012.50
Total Fees	= \$ 7,212.50
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 2,012.50

Respondent, American Capital Partners LLC, is solely liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Francis R. Ortiz, Esq. – Public Arbitrator, Presiding Chair
Jack L. Somers - Public Arbitrator
Donald L. Richardson - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Francis R. Ortiz, Esq.
Francis R. Ortiz, Esq.
Public Arbitrator, Presiding Chair

06/28/06
Signature Date

Jack L. Somers
Public Arbitrator

Signature Date

/s/ Donald L. Richardson
Donald L. Richardson
Non-Public Arbitrator

06/28/06
Signature Date

06/28/06
Date of Service (For NASD office use only)

NASD Dispute Resolution
 Arbitration No. 05-02831
 Award Page 5 of 5

Respondent, Basic Investors, Inc., is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 2,012.50
Total Fees	= \$ 7,212.50
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 2,012.50

Respondent, American Capital Partners LLC, is solely liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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ARBITRATION PANEL

Francis R. Ortiz, Esq. - Public Arbitrator, Presiding Chair
 Jack L. Somers - Public Arbitrator
 Donald R. Richardson - Non-Public Arbitrator

Concurring Arbitrators:



Francis R. Ortiz, Esq.
 Public Arbitrator, Presiding Chair


 Signature Date

Jack L. Somers
 Public Arbitrator

Signature Date

Donald R. Richardson
 Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 03-02631
Award Page 5 of 5

Respondent, Basic Investors, Inc., is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 2,012.50
Total Fees	= \$ 7,212.50
Less: payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 2,012.50

Respondent, American Capital Partners LLC, is solely liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less: payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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ARBITRATION PANEL

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Jack L. Somers - Public Arbitrator
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Concurring Arbitrators:

Francis R. Ortiz, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Jack L. Somers
Public Arbitrator

Signature Date



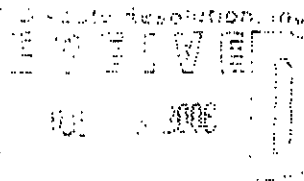
Donald R. Richardson
Non-Public Arbitrator



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NASD Dispute Resolution
Arbitration No. 05-02631
Award Page 5 of 5



Respondent, Basic Investors, Inc., is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 2,012.50
Total Fees	= \$ 7,212.50
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 2,012.50

Respondent, American Capital Partners LLC, is solely liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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ARBITRATION PANEL

Francis R. Ortiz, Esq. - Public Arbitrator, Presiding Chair
Jack L. Somers - Public Arbitrator
Donald R. Richardson - Non-Public Arbitrator

Concurring Arbitrators:

Francis R. Ortiz, Esq.
Public Arbitrator, Presiding Chair

Jack L. Somers
Public Arbitrator

Signature Date

Signature Date

Donald R. Richardson
Non-Public Arbitrator

Signature Date

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