

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

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In the Matter of the Arbitration Between:

Claimant  
Timothy V. Longo

Case Number: 20-03185

vs.

Respondents  
American Capital Partners, LLC  
Trident Partners Ltd.

Hearing Site: New York, New York

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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: Associated Person vs. Members

**REPRESENTATION OF PARTIES**

For Claimant Timothy V. Longo: Thomas P. McEvoy, Esq., and Michael H. Ference, Esq., Sichenzia Ross Ference LLP, New York, New York.

For Respondent American Capital Partners, LLC: John Gardini and Edward Cahill, American Capital Partners, LLC, Hauppauge, New York.

Respondent Trident Partners Ltd. did not enter an appearance.

**CASE INFORMATION**

Statement of Claim filed on or about: September 11, 2020.  
Timothy V. Longo signed the Submission Agreement: September 11, 2020.

Statement of Answer filed by Respondent American Capital Partners, LLC on or about: November 5, 2020.  
American Capital Partners, LLC signed the Submission Agreement: November 9, 2020.

Respondent Trident Partners Ltd. did not file a Statement of Answer or sign the Submission Agreement.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted a claim seeking expungement of customer dispute information from registration records maintained by the Central Registration Depository (“CRD”).

In the Statement of Answer, Respondent American Capital Partners, LLC did not contest Claimant's expungement request.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested: expungement of Occurrence Number 1673255 and 1938232; and compensatory damages in the amount of \$1.00.

In the Statement of Answer, Respondent American Capital Partners, LLC requested that any request for monetary damages or compensation be denied.

At the hearing, Claimant withdrew the request for \$1.00 in damages.

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

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

Respondent Trident Partners Ltd. did not file a Statement of Answer or properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and is bound by the determination of the Arbitrator on all issues submitted.

On September 24, 2021, Claimant advised that the customers in Occurrence Numbers 1673255 and 1938232 ("Customers") were served with the Statement of Claim and notice of the date and time of the expungement hearing.

The Arbitrator conducted a recorded in-person hearing on October 14, 2021, so the parties could present oral argument and evidence on Claimant's request for expungement.

Respondent American Capital Partners, LLC participated in the expungement hearing.

Respondent Trident Partners Ltd. did not participate in the expungement hearing.

The Customers also did not participate in the expungement hearing. The Arbitrator found that the Customers had notice of the expungement request and hearing.

The Arbitrator reviewed Claimant's BrokerCheck® Report. The Arbitrator noted that a prior arbitration panel or court did not previously rule on expungement of the same occurrences in the CRD.

The Arbitrator also reviewed the settlement documentation related to Occurrence Numbers 1673255 and 1938232, considered the amount of payment made to any party to the settlements, and considered other relevant terms and conditions of the settlements. The Arbitrator noted that the settlements were not conditioned on any party to the settlements not opposing the expungement request. The Arbitrator also noted that Claimant contributed to the settlement amounts. The Arbitrator found that expungement is still warranted despite the Claimant having contributed to the settlement amounts as the settlements were less than the anticipated cost of defense and were made purely as business decisions to eliminate the

uncertainty of litigation. The Arbitrator noted that Claimant did not admit to liability or wrongdoing as part of the settlements.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the settlement agreements, Respondent American Capital Partners, LLC's President's testimony; the Customer Verification Forms; the New Account Information Forms, emails from the Customers, and the portfolio performance.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any post-hearing submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Arbitrator recommends the expungement of all references to Occurrence Number 1673255 from registration records maintained by the CRD for Claimant Timothy V. Longo (CRD Number 3059691) with the understanding that, pursuant to Notice to Members 04-16, Claimant Timothy V. Longo must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 13805 of the Code of Arbitration Procedure ("Code"), the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 finding based on the following reasons:

Expungement is recommended as the Customers were sophisticated clients who acknowledged and authorized a high-risk tolerance portfolio in writing and verbally. During the complained of period of poor performance, the Customers never opted to change, alter, or sell their options or strategy. Any poor performance of the fund was a function of the market and not Claimant's actions. Therefore, the claim is false and suitable for expungement. Further, all accounts were non-discretionary, and the customers approved all activity.

2. The Arbitrator recommends the expungement of all references to Occurrence Number 1938232 from registration records maintained by the CRD for Claimant Timothy V. Longo (CRD Number 3059691) with the understanding that, pursuant to Notice to Members 04-16, Claimant Timothy V. Longo must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 13805 of the Code of Arbitration Procedure (“Code”), the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 finding based on the following reasons:

The Customers were seasoned and knowledgeable investors whose reported and acknowledged risk tolerance was “high risk” and their investment objectives “growth.” These accounts were non-discretionary, and the Customers approved, ratified, and authorized all activity and trades. All trades were discussed with the Customers, who also received trade confirmations for each trade, monthly statements, and regular telephone conversations with the Claimant. Their risk tolerance was also consistent with accounts they held at other brokerage firms.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

FINRA Dispute Resolution Services assessed a filing fee\* for each claim:

Initial Claim Filing Fee	= \$	50.00
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*\*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 firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as parties, Respondents American Capital Partners, LLC and Trident Partners Ltd. are each assessed the following:

Member Surcharge	= \$	150.00
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#### **Hearing Session Fees and Assessments**

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Arbitrator @ \$50.00/session	= \$	50.00
Pre-Hearing Conference: January 25, 2021	1 session	
One (1) hearing session on expungement request @ \$50.00/session	= \$	50.00
Hearing: October 14, 2021	1 session	
<b>Total Hearing Session Fees</b>	<b>= \$</b>	<b>100.00</b>

The Arbitrator has assessed the total hearing session fees to Claimant.

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

**ARBITRATOR**

Susan Romano

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Sole 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.

**Arbitrator's Signature**

***Susan Romano***

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Susan Romano  
Sole Public Arbitrator

**11/05/2021**

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Signature Date

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November 05, 2021

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