

**American Intl. Specialty Lines Ins. Co. v Allied
Capital Corp.**

2017 NY Slip Op 32941(U)

December 28, 2017

Supreme Court, New York County

Docket Number: 656341/16

Judge: Barbara Jaffe

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. BARBARA JAFFE
Justice

PART 12

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AMERICAN INTERNATIONAL SPECIALTY
LINES INSURANCE COMPANY,

INDEX NO. 656341/16

Petitioner,

MOTION DATE _____

- v -

MOTION SEQ. NO. 001

ALLIED CAPITAL CORPORATION AND CIENA
CAPITAL LLC (F/K/A BUSINESS LOAN EXPRESS
LLC),

DECISION AND JUDGMENT

Respondents.

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By amended notice of petition and petition, petitioner moves to vacate an arbitration award rendered against it. Respondents oppose.

Petitioner argues that the award must be vacated given the erroneous finding of the arbitration panel that the JAMS Rules were inapplicable to the arbitration at issue. On March 25, 2015, before the arbitration was held, the Panel expressly decided that “the JAMS Comprehensive Rules do not govern the arbitration.” In any event, the parties’ arbitration agreement does not require the application of JAMS Rules. Petitioner thus fails to establish that any error of fact or law was made by the Panel.

Moreover, even had there been an error, it does not constitute a ground on which to vacate the award. (*See Matter of New York Cent. Lines, LLC v Vitale*, 82 AD3d 1244 [2d Dept 2011] [even if arbitrator misapplies substantive rules of law or makes factual error, award not vacated as exceeding arbitrator’s power]; *see also Matter of Janis v New York State Div. of Hous. & Community Renewal*, 271 AD2d 878 [3d Dept 2000] [vacatur not warranted based on failure to comply with procedural provision of arbitration agreement]).

The Panel was also not prohibited from reconsidering the partial final award, having determined that the award was not final, and to the extent that petitioner argues that the Panel erred in so concluding, it is not a sufficient ground on which to vacate the award. That the Panel may have erred in permitting the admission and consideration of certain evidence likewise constitutes an insufficient ground for vacatur, and petitioner has not established that the Panel’s determination constitutes a manifest disregard of the law, rather than an erroneous factual or legal determination, which does not warrant vacatur. (*See e.g., Matter of R.C. Layne Constr. Inc.*,


[Stratton Oakmont, Inc.], 228 AD2d 45 [1st Dept 1996] [arbitrator's evidentiary rulings not basis to vacate award, and court may not vacate award for erroneous interpretation of law]; *see also Wien & Malkin LLP v Helmsley-Spear, Inc.*, 6 NY3d 471 [2006], *cert dismissed* 548 US 940 [erroneous factual determination or manifest disregard of facts does not constitute manifest disregard of law]).

According, it is hereby

ORDERED and ADJUDGED, that the petition is denied; and it is further

ORDERED and ADJUDGED, that pursuant to CPLR 3211(e), the award is hereby confirmed.

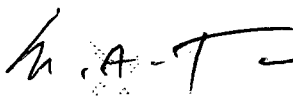
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BARBARA JAFFE, J.S.C.

HON. BARBARA JAFFE

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>		<input type="checkbox"/>	GRANTED IN PART	<input checked="" type="checkbox"/>	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>		<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	REFERENCE
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Judgment

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AT 10:38 AM
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