

**Award**  
**NASD Dispute Resolution, Inc.**

---

In the Matter of the Arbitration Between:

**Edward P. Hawkins,**  
Claimant

Vs.

**LCP Capital Corp. and**  
**Emanuele A. Scarso,**  
Respondents.

Case Number: 01-00074

Hearing Site: Louisville, Kentucky

---

**REPRESENTATION OF PARTIES**

Claimant Edward P. Hawkins ("Hawkins") was represented by James P. McCrocklin, Esquire, Louisville, Kentucky.

Respondents LCP Capital Corp. ("LCP") and Emanuele A. Scarso ("Scarso"), hereinafter collectively referred to as "Respondents," were not represented by counsel and did not appear at the hearing.

**CASE INFORMATION**

The Statement of Claim was filed on or about January 8, 2001.

Claimant signed the Uniform Submission Agreement on December 22, 2000.

Respondent Scarso filed a Statement of Answer on or about March 22, 2001.

Respondent Scarso signed the Uniform Submission Agreement on May 8, 2001.

Respondent LCP did not file an Answer or Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: violations of Sections 10(b) and 20 and Rule 10b-5, fraud, deceit, omission of material facts, unsuitability, intentional misrepresentation, negligent misrepresentation, breach of fiduciary duty, breach of contract and violations of Kentucky state securities and consumer protection laws. These causes of action related to transactions involving the following common stocks: Netrix, Able Telecom, Copper Mountain, Star Telecom and Cellnet Data Systems, Inc.

Unless stated otherwise in his Statement of Answer, Respondent Scarso denied the allegations set forth in the Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$22,144.30
Punitive Damages	unspecified
Attorney's Fees	unspecified
Other Costs	unspecified

Respondent Scarso requested that the claims against him be dismissed in their entirety.

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

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned Panel determined that Respondents LCP and Scarso had been properly served with the Statement of Claim and had received due notice of the hearing, and that arbitration of the matter would proceed without Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent LCP did not file with NASD Dispute Resolution, Inc., a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

On or about July 5, 2001, Claimant settled his claims against Respondent Scarso and filed a voluntary dismissal with prejudice of all claims against Respondent Scarso.

At the hearing, Claimant requested that the Panel refer Respondent Scarso to the NASD for disciplinary action for failure to meet the terms of the settlement agreement. Claimant is advised to seek any relief or disciplinary action desired from NASD Dispute Resolution, Inc.

### **AWARD**

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

1. Respondent LCP Capital Corp. is solely liable for, and shall pay to Claimant Edward P. Hawkins, the sum of \$14,175.00 (Fourteen Thousand One Hundred Seventy-five Dollars and No Cents) in Compensatory Damages.

2. Respondent LCP Capital Corp. is solely liable for, and shall pay to Claimant Edward P. Hawkins, the sum of \$125.00 (One Hundred Twenty-five Dollars and No Cents) as reimbursement of Claimant's Initial Filing Fee.
3. All claims filed by Claimant Edward P. Hawkins against Respondent Emanuele A. Scarso are dismissed with prejudice, pursuant to their signed Settlement Agreement.
4. Except as otherwise specified herein, each party shall bear its own costs and attorneys' fees.
5. Any and all relief not specifically addressed herein (including punitive damages) is denied.

### FEES

Pursuant to the Code, the following fees are assessed:

#### Filing Fees

NASD Dispute Resolution, Inc. will retain the following non-refundable filing fee:  
Initial claim filing fee = \$125.00

#### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm, LCP, is a party.  
Member surcharge = \$400.00

#### Forum Fees and Assessments

The Panel has the authority to assess forum fees for each hearing session conducted. 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) Pre-hearing session with a single arbitrator x \$450 = \$450.00  
Pre-hearing conference: July 17, 2001 1 session

One (1) Hearing session x \$450 = \$450.00  
Hearing Date: August 24, 2001 1 session  

---

Total Forum Fees = \$900.00

NASD Dispute Resolution, Inc.

Arbitration Case #: 01-00074

Page 4 of 4

The Panel has assessed forum fees incurred in this arbitration as follows: one fourth (\$225.00) to Claimant, one fourth (\$225.00) to Respondent Scarso and one half (\$450.00) to Respondent LCP.

### Fee Summary

1. Claimant Edward P. Hawkins is solely liable for:

Forum Fees	= \$225.00
<u>Initial Filing Fee</u>	= \$125.00
Total Fees	= \$350.00
<u>Less payments</u>	= \$575.00
Refund Due to Claimant	= \$225.00

2. Respondent LCP Capital Corp. is solely liable for:

Forum Fees	= \$450.00
<u>Member Fees</u>	= \$400.00
Total Fees	= \$850.00
<u>Less payments</u>	= \$ 0
Balance Due to NASD Dispute Resolution, Inc.	= \$850.00

3. Respondent Emanuele A. Scarso is solely liable for:


Forum Fees	= \$225.00
Total Fees	= \$225.00
<u>Less payments</u>	= \$ 0
Balance Due to NASD Dispute Resolution, Inc.	= \$225.00

All balances are due to NASD Dispute Resolution, Inc.

### ARBITRATION PANEL

Carolyn K. Balleisen, Esq.

Public Arbitrator

  
Carolyn K. Balleisen, Esq.  
Sole Public Arbitrator

  
Signature Date

Date of Service (For NASD-Dispute Resolution office use only)