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

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In the Matter of the Arbitration Between:

**Capital Securities of America, Inc.,**  
Claimant

Vs.

**Thomas L. Dooley,**  
Respondent.

Case Number: 01-00165  
Hearing Site: Columbus, Ohio

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**REPRESENTATION OF PARTIES**

Claimant Capital Securities of America, Inc. ("Claimant"), was represented by Anne W. Larkin, Esquire, and Dennis Concilla, Esquire, of Carlile, Patchen & Murphy, LLP, Columbus, Ohio.

Respondent/Counterclaimant Thomas L. Dooley ("Respondent") was represented by Todd H. Newman, Esquire, of Swedlow, Butler, Levine, Lewis & Dye Co., L.P.A., Columbus, Ohio.

**CASE INFORMATION**

The Statement of Claim was filed on or about January 11, 2001.  
Jerry L. Cline, President of Capital Securities of America, Inc., signed the Uniform Submission Agreement on its behalf on December 9, 2000.

Respondent filed his Answer and Counterclaim on or about March 20, 2001.  
Respondent filed a signed, undated Uniform Submission Agreement on or about March 20, 2001.

Claimant filed its Reply to Counterclaim on or about April 10, 2001.

**CASE SUMMARY**

Claimant alleged the following in its Statement of Claim: breach of employment contract and unlawful possession of two of Claimant's computers.

Unless otherwise stated in his Answer, Respondent denied the allegations set forth in the Statement of claim and asserted the following affirmative defenses: failure to state a claim upon which relief can be granted and failure to mitigate. Respondent admitted that he possessed one of Claimant's computers, but denied that he possessed two computers.

In his Counterclaim, Respondent alleged the following against Claimant: breach of contract and unlawful possession of personal property, including a facsimile machine and various telephones.

Unless otherwise stated in its Reply to Counterclaim, Claimant denied the allegations set forth in the Counterclaim and asserted the following affirmative defenses: failure to state a claim upon which relief can be granted, ratification, waiver, laches, estoppel and failure to mitigate.

### **RELIEF REQUESTED**

Claimant requested:

Liquidated Damages	\$ 94,071.73
Compensatory Damages	\$ 20,309.87
Loan repayment	\$ 24,269.91
Interest	9% per annum
Costs	unspecified
Attorney's Fees	unspecified

Claimant also requested that the Panel order Respondent to return to Claimant two computers belonging to Claimant and allegedly in Respondent's possession.

Respondent requested that Claimant's claims be dismissed in their entirety.

In his Counterclaim, Respondent requested:

Compensatory Damages	\$291,436.40
Costs	unspecified

Respondent also requested that the Panel order Claimant to return to Respondent personal property, including a facsimile machine and various telephones, belonging to Respondent and allegedly in Claimant's possession.

Claimant requested that Respondent's claims be dismissed in their entirety.

### **AWARD**

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

1. Respondent Thomas L. Dooley is solely liable for, and shall pay to Claimant Capital Securities of America, Inc., the sum of \$79,372.00 (Seventy-nine Thousand, Three Hundred Seventy-two Dollars and No Cents) in damages.
2. Respondent Thomas L. Dooley shall return to Claimant Capital Securities of America, Inc., Claimant's computer, which Respondent acknowledges currently having in his possession.
3. All claims asserted by Respondent Thomas L. Dooley in his Counterclaim against Claimant Capital Securities of America, Inc., are denied.
4. Except as specified otherwise herein, each party shall bear its own costs and attorneys' fees.
5. 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, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$1,000.00
Counterclaim 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 firm(s) that employed the associated person(s) at the time of the events giving rise to the dispute. In this matter, the member firm is Capital Securities of America, Inc.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

#### **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 Panel x \$1,125	= \$1,125.00
Pre-hearing conferences: June 29, 2001 1 session	
Six (6) Hearing sessions x \$1,125	= \$6,750.00

Hearing Dates	December 28, 2001	2 sessions
	December 29, 2001	1 session
	January 14, 2002	3 sessions

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Total Forum Fees = \$7,875.00

The Panel has assessed forum fees incurred in this arbitration as follows: one half (\$3,937.50) to Claimant and one half (\$3,937.50) to Respondent.

### FEE SUMMARY

1. Claimant Capital Securities of America, Inc., is solely liable for:

Initial Filing Fee	= \$1,000.00
Forum Fees	= \$3,937.50
<u>Member Fees</u>	= \$4,600.00
Total Fees	= \$9,537.50
<u>Less payments</u>	= \$6,725.00
Balance Due NASD Dispute Resolution, Inc.	= \$2,812.50

2. Respondent Thomas L. Dooley is solely liable for:

Counterclaim Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$3,937.50
Total Fees	= \$4,237.50
<u>Less payments</u>	= \$1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$2,812.50

All balances are due to NASD Dispute Resolution, Inc.

### ARBITRATION PANEL

<i>Rita E. Tholt, Esq.</i>	-	<i>Non-Public Arbitrator, Chairperson</i>
<i>Kathleen T. SuSong</i>	-	<i>Non-Public Arbitrator</i>
<i>Robert P. Fogarty</i>	-	<i>Non-Public Arbitrator</i>

<u>Rita E. Tholt</u>	<u>February 13, 2002</u>
Rita E. Tholt, Esq.	Signature Date
Chairperson	

<u>Kathleen T. SuSong</u>	<u>February 12, 2002</u>
Kathleen T. SuSong	Signature Date
Non-Public Arbitrator	

<u>Robert P. Fogarty</u>	<u>February 12, 2002</u>
Robert P. Fogarty	Signature Date
Non-Public Arbitrator	

February 21, 2002  
Date of Service

NASD Dispute Resolution, Inc.

Arbitration Case #: 00-00165

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Robert P. Fogarty	-	Non-Public Arbitrator

Rita E. Tholt  
Rita E. Tholt, Esq.  
Chairperson

2-13-02  
Signature Date

Kathleen T. SuSong  
Kathleen T. SuSong  
Non-Public Arbitrator

Signature Date

Robert P. Fogarty  
Robert P. Fogarty  
Non-Public Arbitrator

Signature Date

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

→ 01-0165  
Hearing Dates                      December 28, 2001    2 sessions  
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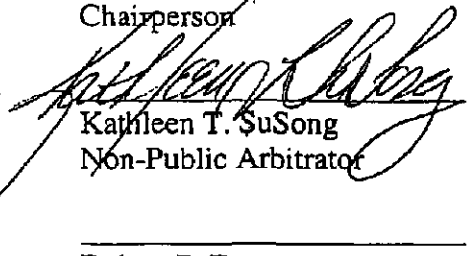
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Chairperson

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