

**Award
NASD**

In the Matter of the Arbitration Between:

Carty and Company, Inc., Claimant v. Ty Kevin Bauer, Respondent

Case Number: 01-02437

Hearing Site: Memphis, TN

REPRESENTATION OF PARTIES

For Carty and Company, Inc., hereinafter referred to as "Claimant": John J. Helfin, Esq.,
Bourland, Helfin, Alvarez and Minor, Memphis, TN.

For Respondent Ty Kevin Bauer: Scott A. Kramer, Esq., Borod & Kramer, P.C., Memphis TN.

CASE INFORMATION

Statement of Claim filed on or about: May 22, 2001.

Claimant's Uniform Submission Agreement signed: April 27, 2001.

Respondent's Answer filed on or about: August 1, 2001.

Respondent's Uniform Submission Agreement signed: September 7, 2001.

Amended Statement of Claim filed on or about: February 4, 2002.

Response to Amended Statement of Claim filed on or about: February 26, 2002.

Pre hearing brief filed by Respondent on or about: December 13, 2002.

CASE SUMMARY

Claimant alleged the following causes of action: (1) breach of contract under the Employment Agreement; (2) breach of contract under the Trading Agreement; and, (3) breach of contract under the Internet Capital Group ("ICG") Agreement.

Unless specifically admitted in his Statement of Answer, Respondent denied the allegations of wrongdoing set forth in Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested in its Statement of Claim and its Amended Statement of Claim: 1) compensatory damages in the amount of \$751,279.45, which represents the debt owed by Respondent for trading losses and includes amounts owed under the Trading Agreement and ICG Agreement; (2) accrued interest at the maximum allowable interest rate; (3) costs and attorneys' fees incurred in pursuing this matter; and, (4) such additional and further relief to which the Claimant is entitled.

Respondent requested reasonable attorneys' fees and costs and such additional and further relief to which the Respondent is entitled.

OTHER ISSUES CONSIDERED AND DECIDED

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.

AWARD

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

- 1) The Panel finds Respondent liable to Claimant on the claim of breach of contract.
- 2) Respondent shall pay to Claimant compensatory damages in the amount of \$528,476.00, pre-judgment interest specifically excluded.
- 3) Each party shall bear their respective attorneys' fees and costs.
- 4) Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

NASD received or will collect, the non-refundable filing fees for each claim as follows:

| | |
|--------------------------|--------------|
| Initial claim filing fee | = \$1,250.00 |
|--------------------------|--------------|

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a Respondent at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, Claimant Carty and Company, Inc. is a party to this dispute and was an NASD member at the time the following fees were assessed:

| | |
|----------------------------|---------------------|
| Member Surcharge | = \$2,000.00 |
| Pre-Hearing Process Fee | = \$600.00 |
| <u>Hearing Process Fee</u> | <u>= \$3,500.00</u> |
| Total Member Fees | = \$6,100.00 |

Adjournment Fees

On or about June 4, 2002, the Parties filed a Joint Motion to Adjourn and Reset Hearing. On June 6, 2002, the Panel issued an order through the Chairperson granting the Motion. The Panel assessed the adjournment fee of \$1,200.00 to the Claimant. On or about October 11, 2002, the

Panel granted the Joint Motion to Adjourn, filed on the same date. The Panel waived the adjournment fee.

Injunctive Relief Fees

Injunctive relief fees were not assessed in this matter.

Administrative Costs

There were no administrative costs incurred during these proceedings.

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

| | |
|--|--------------------|
| One (1) Pre-hearing conference with the Panel @ \$1,200.00/session | = \$1,200.00 |
| Pre-hearing conference: January 23, 2002 1 session | |
| Five (5) Hearing sessions with the Panel @ \$1,200.00/session | = \$6,000.00 |
| Hearing: December 17, 2002 2 sessions | |
| December 18, 2002 2 sessions | |
| December 23, 2002 1 session | |
| <hr/> Total Forum Fees | <hr/> = \$7,200.00 |

The Panel assessed \$3,600.00 of the forum fees to Claimant.

The Panel assessed \$3,600.00 of the forum fees to Respondent.

Fee Summary

Claimant is solely liable to NASD for the following fees and costs:

| | |
|------------------------|---------------------|
| Initial Filing Fee | = \$1,250.00 |
| Adjournment Fee | = \$1,200.00 |
| Member Fees | = \$6,100.00 |
| Forum Fees | = \$3,600.00 |
| <hr/> Total Fees | <hr/> = \$12,150.00 |
| Less payments | = \$5,050.00 |
| <hr/> Balance Due NASD | <hr/> = \$7,100.00 |

Respondent is solely liable for the following fees and costs:

| | |
|------------|--------------|
| Forum Fees | = \$3,600.00 |
|------------|--------------|

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| | |
|------------------|--------------|
| Total Fees | = \$3,600.00 |
| Less payments | = \$ 0.00 |
| Balance Due NASD | = \$3,600.00 |

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

ARBITRATION PANEL

| | | |
|-----------------|---|--|
| E. Steve Scales | - | Non-Public Arbitrator, Presiding Chair |
| Hal F. Lewis | - | Non-Public Arbitrator |
| Eugene R. Katz | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

_____/s/_____
E. Steve Scales
Non-Public Arbitrator, Presiding Chair

Signature Date

_____/s/_____
Hal F. Lewis
Non-Public Arbitrator

Signature Date

_____/s/_____
Eugene R. Katz
Non-Public Arbitrator

Signature Date

February 3, 2003

Date of Service (For NASD office use only)

NASD

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Concurring Arbitrators' Signatures



 E. Steve Scales
 Non-Public Arbitrator, Presiding Chair

1/29/03

 Signature Date

 Hal F. Lewis
 Non-Public Arbitrator

 Signature Date

 Eugene R. Katz
 Non-Public Arbitrator

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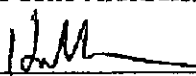
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Non-Public Arbitrator, Presiding Chair

Signature Date



Hal F. Lewis
Non-Public Arbitrator

1/29/03

Signature Date

Eugene R. Katz
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Concurring Arbitrators' Signatures

E. Steve Scales
Non-Public Arbitrator, Presiding Chair

Signature Date

Hal F. Lewis
Non-Public Arbitrator

Signature Date



Eugene R. Katz
Non-Public Arbitrator

2/3/03

Signature Date

Date of Service (For NASD office use only)