

**Award**  
**NASD Dispute Resolution**

---

In the Matter of the Arbitration Between:

Municipal Partners LLC (Claimant) v. Cantor Fitzgerald Partners and Howard Lutnick

Case Number: 02-06002

Hearing Site: New York, New York

---

Nature of the Dispute: Member vs. Member and Associated Person

**REPRESENTATION OF PARTIES**

Claimant Municipal Partners LLC hereinafter referred to as "Claimant": Henry G. Burnett, Esq., Fulbright & Jaworski LLP, New York, NY.

Respondents Cantor Fitzgerald Partners ("Cantor") and Howard Lutnick ("Lutnick"), hereinafter collectively referred to as "Respondents": Michael A. Lampert, Esq., Saul Ewing, LLP, Princeton, NJ. Previously represented by Louis M. Solomon, Esq., Swidler Berlin Shereff Friedman, LLP, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: October 8, 2002.

Claimant signed the Uniform Submission Agreement: October 8, 2002.

Reply to Respondents' Counterclaim filed on or about: June 24, 2004.

Joint Statement of Answer and Counterclaim filed by Respondents on or about: June 14, 2004.

Respondent Cantor did not sign a Uniform Submission Agreement.

Respondent Lutnick did not sign a Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract, negligence, failure to honor contractual payment obligations, operating and transition agreements, and gouging.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

**Claimant requested:**

Compensatory Damages	\$ 1,000,000.00
Punitive Damages	\$ 3,000,000.00
Attorneys' Fees	\$ Unspecified
Other Costs	\$ Forum Fees

Other Non-Monetary Relief: direct Respondents to provide records and supporting documentation detailing the generation of fees, release all net fees collected by Respondent Cantor, declare that Claimant Municipal has no obligation to pay Respondent Cantor, reimburse Claimant Municipal for costs incurred and declare the agreement of eSpeed is null and void due to material breach.

Respondents requested that the Statement of Claim be dismissed in its entirety, awarding attorneys' fees, costs and such other relief the Panel may deem equitable and just.

**Respondents Cantor and Lutnick requested:**

Compensatory Damages	\$ Unspecified
----------------------	----------------

Other Monetary Relief: direct Claimant to pay Respondent Cantor for billed but unpaid charges pursuant to the Organization Agreement, Operating Agreement, and Transaction Agreement.

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

Respondent, Cantor and Lutnick did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but are required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

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, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents' are liable for and shall pay Claimant compensatory damages in the amount of \$363,292.00, which includes interest in the amount of \$73,903.00.
2. 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 will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 2,000.00
Counter claim filing fee	= \$ 500.00

**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, Municipal and Cantor are parties to this matter.

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

November 3, 4, 5, 2004 adjournment requested by Claimant	= \$ 1,200.00
November 8-9, 2004 adjournment requested by Respondent	= \$ 1,200.00

**Forum Fees and Assessments**

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

Three (3) Pre-hearing sessions with Panel @ \$1,200.00	= \$ 3,600.00
--	---------------

Pre-hearing conferences:	June 29, 2004	1 session
	September 27, 2004	1 session
	November 3, 2004	1 session

Thirteen (13) Hearing sessions @ \$1,200.00	= \$ 15,600.00
---	----------------

Hearing Dates:	March 28, 2005	1 session
	June 13, 2005	2 sessions
	June 14, 2005	2 sessions
	June 15, 2005	2 sessions
	June 20, 2005	2 sessions
	June 21, 2005	2 sessions
	June 27, 2005	2 sessions

---

Total Forum Fees	= \$ 19,200.00
------------------	----------------

1. The Panel has assessed \$ 19,200.00 of the forum fees to Respondent Cantor.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 2,000.00
Member Fees	= \$ 8,550.00
Adjournment Fees	= \$ 1,200.00
Total Fees	= \$ 11,750.00
Less payments	= \$ 12,350.00
Refund due Claimant	= \$ 600.00

2. Respondent Cantor is solely liable for:

Member Fees	= \$ 8,550.00
Counterclaim Filing Fee	= \$ 500.00
Forum Fees	= \$ 19,200.00
Total Fees	= \$ 28,250.00
Less payments	= \$ 10,800.00
Balance Due NASD Dispute Resolution	= \$ 17,450.00

3. Respondents Cantor and Lutnick are jointly and severally liable for :

Adjournment Fee	= \$ 1,200.00
Total Fees	= \$ 1,200.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

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

**ARBITRATION PANEL**

Farrell C. Glasser

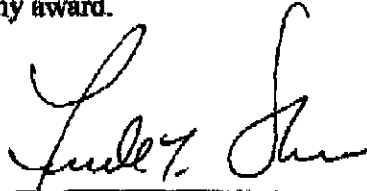
- Public Arbitrator, Presiding Chairperson

Vito J. Cassan  
Philip W. Gaffney

- Public Arbitrator  
- Non-Public Arbitrator

Concurring Arbitrators' Signatures

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.



Farrell C. Glasser  
Public Arbitrator, Presiding Chairperson

7/26/05  
Signature Date

\_\_\_\_\_  
Vito J. Cassan  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Philip W. Gaffney  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

July 26, 2005  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**


Farrell C. Glasser	-	Public Arbitrator, Presiding Chairperson
Vito J. Cassan	-	Public Arbitrator
Philip W. Gaffney	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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.

\_\_\_\_\_  
Farrell C. Glasser  
Public Arbitrator, Presiding Chairperson

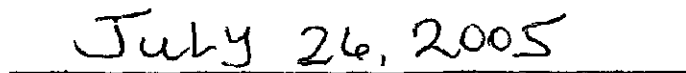
\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Vito J. Cassan  
Public Arbitrator

  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Philip W. Gaffney  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Farrell C. Glasser	-	Public Arbitrator, Presiding Chairperson
Vito J. Cassan	-	Public Arbitrator
Philip W. Gaffney	-	Non-Public Arbitrator

Concerning Arbitrators' Signatures

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.

\_\_\_\_\_  
Farrell C. Glasser  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Vito J. Cassan  
Public Arbitrator

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Philip W. Gaffney  
Non-Public Arbitrator

  
\_\_\_\_\_  
Signature Date

JULY 26, 2005  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)