

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Lee H. Kimmell and LKWT Partners, (Claimants) vs. Interacciones Global, Inc., (Respondent)

Case Number: 99-02338

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimants, Lee H. Kimmell ("Kimmell") and LKWT Partners ("LKWT"), hereinafter collectively referred to as "Claimants": Alan E. Kraus, Esq., Latham & Watkins, Newark, NJ (Mr. Kraus was with the law firm of Riker, Danzig, Scherer, Hyland & Perretti, LLP, when this claim was originally filed).

Respondent, Interacciones Global, Inc., hereinafter referred to as "Respondent": Bruce V. Schewe, Esq., Phelps Dunbar LLP, New Orleans, LA. Previously represented by: Steve Chiscano, Esq., Davis, Cedillo & Mendoza, San Antonio, TX.

CASE INFORMATION

Statement of Claim filed on or about: May 20, 1999.

Reply to Counterclaim filed by Kimmell on or about: August 19, 1999.

Kimmell signed the Uniform Submission Agreement: March 26, 1999.

LKWT signed the Uniform Submission Agreement: March 26, 1999.

Statement of Answer and Counterclaim against Kimmell filed by Respondent on or about: August 5, 1999.

Respondent signed the Uniform Submission Agreement: August 11, 1999.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; quantum meruit; unpaid compensation; promissory estoppel; and return of capital.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants fail to state a claim against Respondent upon which relief can be granted; Respondent has made full payment of any and all monetary obligations owed to Claimant Kimmell and does not owe any sum to

Claimant LKWT; Claimants' claims are barred by the applicable statutes of limitations; Claimants' claims are barred by the defenses of waiver, estoppel, *in pari delicto*, unjust enrichment, and unclean hands; any amounts that Kimmell alleges are owed to him by Respondent must be set-off by the amounts Kimmell owes to Respondent; if the agreement in question can be construed to constitute an employment agreement, then Kimmell breached the contract and was terminated for cause by Respondent; and the document upon which Kimmell relies in this proceeding is contrary to the principles and public policy of the laws of the state of New York, including but not limited to the statute of frauds.

In its Counterclaim against Kimmell, Respondent asserted the following causes of action: breach of fiduciary duty; intentional and/or negligent misrepresentations; omissions; and failure to deal in good faith.

Unless specifically admitted in his Reply, Kimmell denied the allegations made in the Counterclaim and asserted the following defenses: the Counterclaim fails to state claims upon which relief can be granted; Kimmell fulfilled his obligations in good faith and with due care; the Counterclaim is barred because Kimmell's actions were authorized and approved by officials at Respondent's parent company; the Counterclaim is barred because Kimmell's conduct while at Respondent was subject to and protected by the Business Judgement Rule; the Counterclaim is barred under Del. Gen. Corp. Law section 102(b)(7); the Counterclaim is barred by the doctrine of *res judicata*; and any losses or other damages incurred by Respondent were not caused by any conduct on the part of Kimmell.

RELIEF REQUESTED

Claimant Kimmell requested compensatory damages in the approximate amount of \$5,500,000.00, plus punitive damages, interest, attorneys' fees, costs, and such other and further relief as the Panel deems appropriate. Claimant LKWT requested compensatory damages in the approximate amount of \$1,000,000.00, plus interest, attorneys' fees, costs, and such other and further relief as the Panel deems appropriate.

Respondent requested that the Panel dismiss Claimant's claims with prejudice, and award Respondent its reasonable attorneys' fees and costs in defending this matter.

In its Counterclaim, Respondent requested compensatory damages in the approximate amount of \$14,300,000.00, plus punitive damages, interest, attorneys' fees, costs, and all other relief to which Respondent is entitled.

In his Reply, Kimmell requested that the Panel dismiss the Counterclaim with prejudice.

OTHER ISSUES CONSIDERED AND DECIDED

During the hearing in this matter, Claimants and Respondent advised the Panel that they entered into a stipulation of dismissal, with prejudice, of the Counterclaims of Respondent.

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. Respondent be and hereby is solely liable for and shall pay to Kimmell the sum of \$1,308,000.00 as compensatory damages.
2. All other requests for relief are hereby 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	= \$ 600.00
Counterclaim filing fee	= \$ 5,000.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, Interacciones Global, Inc. is a party.

Member surcharge	= \$ 3,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 5,000.00

Adjournment Fees

Adjournments requested during these proceedings:

Feb. 12 - 16, 2001, adjournment by Respondent	= \$ 1,200.00
July 23 - 27, 2001, adjournment by Respondent	= \$ 1,000.00
Oct. 1 - 5, 2001, adjournment by Respondent	= WAIVED

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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:

Two (2) Pre-hearing sessions with Panel x \$1,200.00	= \$ 2,400.00
Pre-hearing conferences: August 11, 2000	1 session
October 12, 2001	1 session

Twenty-nine (29) Hearing sessions x \$1,200.00	= \$34,800.00
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Hearing Dates:	December 17, 2001	2 sessions
	December 18, 2001	2 sessions
	December 19, 2001	2 sessions
	December 20, 2001	2 sessions
	December 21, 2001	2 sessions
	February 4, 2002	2 sessions
	February 5, 2002	2 sessions
	February 6, 2002	2 sessions
	February 7, 2002	2 sessions
	February 8, 2002	2 sessions
	April 22, 2002	1 session
	April 23, 2002	2 sessions
	April 24, 2002	2 sessions
	April 25, 2002	2 sessions
	April 26, 2002	2 sessions

Total Forum Fees	= \$37,200.00
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1. The Panel has assessed \$18,600.00 of the forum fees against Kimmell.
2. The Panel has assessed \$18,600.00 of the forum fees against Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Claimants, requested tapes, \$240.00.

Fee Summary

1. Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
<u>Administrative Costs</u>	= \$ 240.00
Total Fees	= 840.00
<u>Less payments</u>	= \$ 840.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 00.00

2. Kimmell be and hereby is solely liable for:

<u>Forum Fees</u>	= \$18,600.00
Total Fees	= \$18,600.00
<u>Less payments</u>	= \$ 1,200.00
Balance Due NASD Dispute Resolution, Inc.	= \$17,400.00

3. Respondent be and hereby is solely liable for:

Counterclaim Filing Fee	= \$ 5,000.00
Member Fees	= \$ 8,600.00
Adjournment Fees	= \$ 2,200.00
<u>Forum Fees</u>	= \$18,600.00
Total Fees	= \$34,400.00
<u>Less payments</u>	= \$17,200.00
Balance Due NASD Dispute Resolution, Inc.	= \$17,200.00

All balances are due and payable to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Edwin E. Albom	-	Public Arbitrator, Presiding Chair
Alexander Tolor, Ph.D	-	Public Arbitrator
Jerry P. DeNigris	-	Industry 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.



Edwin E. Albom
Public Arbitrator, Presiding Chair

6/7/02
Signature Date

Alexander Tolor, Ph.D
Public Arbitrator

Signature Date

Jerry P. DeNigris
Industry Arbitrator

Signature Date

June 14, 2002
Date of Service (For NASD office use only)

ARBITRATION PANEL

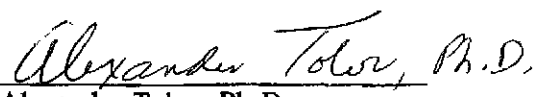
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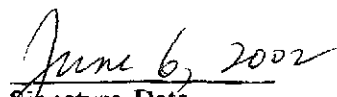
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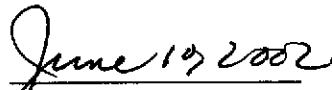
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