

AMERICAN ARBITRATION ASSOCIATION
Commercial Arbitration Tribunal

In the Matter of the Arbitration between

[REDACTED]

Claimant,

and

Case No. 13 166 [REDACTED]

[REDACTED]

Respondent.

FINAL AWARD

I, **THE UNDERSIGNED ARBITRATOR**, having been designated in accordance with the arbitration agreement contained in the Employment Agreement dated as of May 8, 2006 between the above-named parties, [REDACTED], a Delaware corporation, and [REDACTED] [REDACTED] an individual; and having been duly sworn and having duly heard the proofs and allegations of the parties in arbitration administered and conducted in New York, New York pursuant to the Employment Arbitration Rules of the American Arbitration Association; and having entered a Partial Final Award dated December 1, 2009 pursuant to which jurisdiction was reserved for further proceedings related to the award of fees and allocation of expenses; and having considered the submissions of the parties in connection with such further proceedings; do hereby AWARD, as a FINAL AWARD, as follows:

1. The Partial Final Award is incorporated herein by reference. In particular, Claimant is the prevailing party in a case in which Respondent's conduct in discovery prolonged and increased the expense of the proceedings.

2. The fees and expenses set forth in the Affirmation in Support of Application for Attorneys' Fees and Costs are, with modest adjustments, justified under the circumstances. Counsel's representation of Claimant was skillful, zealous and effective, and the rates applied and hours dedicated were reasonable in the context of this case. The fact that Claimant's counsel spared no effort for his client on the basis of a contingent fee arrangement in a



staunchly defended case warrants the award of a reasonable premium over counsel's recorded hours. Moreover, the expenses incurred were, with minor exceptions, proportionate to the requirements of the case. In particular, although the Panel did not adopt all of the analysis or conclusions set forth in the [redacted] report, its methodology was sound, exhaustive and clearly stated, and it provided the Panel with a valuable tool with which to come to a substantive valuation decision.

3. Claimant is hereby awarded the following:

- a. *Three Hundred Fifty Five Thousand Dollars and Zero Cents (\$355,000.00)* for the fees and expenses of Claimant's counsel; plus
- b. *Eighty Five Thousand Dollars and Zero Cents (\$85,000.00)* on account of the services rendered by the firm of [redacted]; plus
- c. *Fourteen Thousand Dollars and Zero Cents (\$14,000.00)* on account of court reporter fees; plus
- d. *Four Thousand Dollars and Zero Cents (\$4,000.00)* on account of expenses incurred by Claimant; plus
- e. *Six Thousand Seven Hundred Seventy Six Dollars and Zero Cents (\$6,776.00)* in pre-award interest from December 1, 2009 to the date of this Final Award.
- f. Interest on all amounts awarded herein, excluding interest on interest but including all amounts awarded for administrative fees and arbitrator compensation, *infra*, shall accrue (i) at the rate of nine percent (9%) per annum on any amounts not paid within thirty (30) days of the date of delivery of this Award to counsel for Respondent (ii) from the date of this Final Award until such amounts are paid.
- g. Filing and administrative fees and arbitrator compensation are awarded as follows. The initial filing fee, totaling \$18,573.86, shall be borne as incurred by Claimant. All other administrative fees, totaling \$1,500, and compensation and expenses of the Arbitrator, totaling \$108,077.26, shall be borne by Respondent. Therefore, Respondent shall reimburse Claimant, in addition to the amounts awarded *supra*, the sum of




Fifty Four Thousand Seven Hundred Eighty Eight Dollars and Sixty Three Cents (\$54,788.63) representing that portion of said fees and expenses in excess of the apportioned costs previously incurred by Claimant.

h. This Award is in full settlement of all claims and counterclaims submitted to this arbitration. All claims not expressly granted herein are hereby denied.

January 29, 2010
Date



I, , do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument which is my Final Award.

January 29, 2010
Date

