

IN THE SUPREME COURT OF THE STATE OF NEVADA

QUANTUM LOYALTY SYSTEMS, INC.,  
Appellant,  
vs.  
STEPHEN DREES,  
Respondent.

No. 47116

**FILED**

JUN 30 2006

ORDER DISMISSING APPEAL

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is an appeal from a district court order vacating an arbitration award and directing a rehearing before a new arbitrator. Respondent has moved to dismiss this appeal for lack of jurisdiction; appellant opposes respondent's motion. Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge.

After the parties participated in arbitration, the arbitrator issued an award that, in part, determined reimbursement and valuation of respondent's shares in appellant corporation. Thereafter, respondent moved the district court to vacate the arbitration award, with regard to the valuation, on the basis that it was arbitrary and capricious, a manifest disregard of the law, and the result of prejudicial misconduct or error by the arbitrator. Appellant opposed the motion and filed a countermotion for the district court to enter an order confirming the arbitration award.

Following a hearing on the motions, the district court entered an order vacating the portion of the arbitration award involving reimbursement and valuation, and directing a rehearing before a different arbitrator. Appellant appealed.

Respondent moves this court to dismiss the appeal on the ground that the order is not substantively appealable. This court has jurisdiction to consider an appeal only when the appeal is authorized by

statute or court rule.<sup>1</sup> NRS 38.247, in part, allows for an appeal from an order “vacating an award without directing a rehearing.”<sup>2</sup>

Here, the district court vacated the arbitration award and remanded the matter to a different arbitrator for additional arbitration. The district court’s remand clearly qualifies under NRS 38.247(1)(e) as “directing a rehearing.” Consequently, the district court’s order is not appealable under NRS 38.247(1)(e).

Appellant, in its opposition to respondent’s motion to dismiss, argues that while the district court’s order did not expressly deny its countermotion to confirm the arbitration award, by granting respondent’s motion to vacate the award, the district court in essence denied its motion to confirm the award. Thus, according to appellant, this appeal is proper under NRS 38.247(1)(c), which allows an appeal from “[a]n order . . . denying confirmation of an award.” This argument has been consistently rejected in other jurisdictions.<sup>3</sup> Those jurisdictions have generally concluded that if an order that vacates an award and directs a rehearing were construed to be appealable as an order denying confirmation of an

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<sup>1</sup>Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).

<sup>2</sup>NRS 38.247(1)(e).

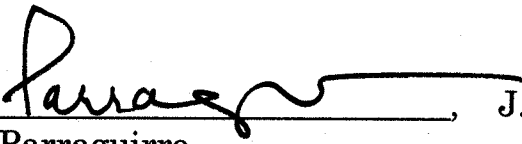
<sup>3</sup>See Kowler Associates v. Ross, 544 N.W.2d 800 (Minn. Ct. App. 1996); Crack Team v. American Arbitration Ass’n, 128 S.W.3d 580 (Mo. Ct. App. 2004); Nebraska Dept. of Health v. Struss, 623 N.W.2d 308 (Neb. 2001); Prudential Securities, Inc. v. Vondergoltz, 14 S.W.3d 329 (Tex. App. 2000).

award, then the language about "directing a rehearing" would be superfluous.<sup>4</sup> We agree.

Accordingly, we are without jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.<sup>5</sup>

  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, Sr.J.  
Shearing

cc: Hon. Sally L. Loehrer, District Judge  
William F. Buchanan, Settlement Judge  
Jones Vargas/Reno  
Hutchison & Steffen, Ltd.  
Mary Beth Cook, Court Reporter  
Clark County Clerk

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<sup>4</sup>See e.g., Ross, 544 N.W.2d at 801-02.

<sup>5</sup>Respondent has filed a motion to file a reply in support of his motion to dismiss. We deny the motion as moot. In addition, we dismiss appellant's June 28, 2006, amended appeal from a district court order denying its motion for reconsideration, as no appeal may be taken from an order denying a motion for reconsideration. See Alvis v. State, Gaming Control Bd., 99 Nev. 184, 660 P.2d 980 (1983) (holding that an order denying a motion for reconsideration is not appealable).

The Honorable Miriam Shearing, Senior Justice, participated in the decision of this matter under general order of assignment entered January 6, 2006.