

IN THE SUPREME COURT OF THE STATE OF NEVADA

ATM INTERNATIONAL, INC., A
NEVADA CORPORATION,
Appellant,
vs.
ELECTRONIC PROCESSING, INC., A
CALIFORNIA CORPORATION,
Respondent.

No. 36612

FILED

APR 10 2002

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

ORDER DISMISSING APPEAL

This is an appeal from a judgment after bench trial in a breach of contract action. On July 27, 2001, we ordered appellant ATM International, Inc. to show cause why this appeal should not be dismissed for lack of jurisdiction. It appeared that the district court had not entered a final judgment adjudicating the rights and liabilities of all the parties.¹ In particular, the district court had not entered a written order formally dismissing (1) ATM's claims for breach of contract and accounting against defendant Becker Gaming Group, Inc., and (2) respondent Electronic Processing, Inc.'s cross-claims for breach of the covenant of good faith and fair dealing, unjust enrichment, and misrepresentation against ATM. In

¹See NRAP 3A(b)(1); Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000); see also KDI Sylvan Pools v. Workman, 107 Nev. 340, 342-43, 810 P.2d 1217, 1219 (1991).

our order, we advised ATM that in the event the district court entered a written order formally resolving these claims and cross-claims, ATM could cure the jurisdictional defect by filing an amended notice of appeal in compliance with NRAP 4(a).

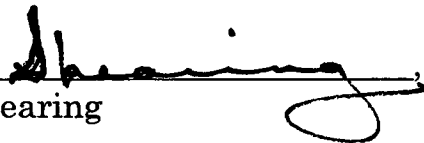
In response, ATM agreed that these claims and cross-claims had not been formally resolved. ATM ultimately obtained two written orders from the district court, both entered on August 29, 2001. ATM filed an amended notice of appeal on August 30, 2001. The district court's orders, however, did not resolve the entire jurisdictional defect. One order dismissed ATM's breach of contract and accounting claims against Becker. But the other order dismissed Electronic's claims against Becker. This dismissal appeared to be a clerical error because Electronic's cross-claims were asserted against ATM, not Becker. Thus, it appeared that the district court had still not formally resolved Electronic's cross-claims for breach of the covenant of good faith and fair dealing, unjust enrichment, and misrepresentation against ATM.

Accordingly, on November 13, 2001, we again ordered ATM to show cause why this appeal should not be dismissed for lack of jurisdiction, and to submit a copy of any order resolving Electronic's cross-claims against ATM. We noted that if the district court entered a new order, ATM must file an amended notice of appeal pursuant to NRAP 4(a) in order to perfect this court's jurisdiction. We also granted the district court leave to correct the order dismissing Electronic's claims against Becker pursuant to NRCP 60(a), in the event the order resulted from a


clerical error. We cautioned ATM that failure to demonstrate that this court has jurisdiction may result in this court's dismissal of this appeal.

To date, ATM has not responded to our November 13, 2001 order. Accordingly, as ATM has failed to demonstrate this court's jurisdiction over this appeal, we

ORDER this appeal DISMISSED.


_____, J.
Shearing


_____, J.
Rose


_____, J.
Becker

cc: Hon. Allan R. Earl, District Judge
Berkley, Gordon, Levine, Goldstein & Garfinkel
Daryl Idler
McDonald Carano Wilson McCune Bergin Frankovich & Hicks
LLP/Las Vegas
Clark County Clerk