

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IRIS CANTOR, Individually, and as	§
De Facto Trustee of the CANTOR	§
FAMILY TRUST, and IRIS	§
CANTOR as Trustee of the	§
MICHELLE LABOZZETTA	§
TRUST, IRIS CANTOR as Trustee	§
of the SUZANNE FISHER TRUST,	§
IRIS CANTOR as Trustee of the	§
HOWARD LUTNICK TRUST,	§
IRIS CANTOR as Trustee of the	§
STUART FRASER TRUST, IRIS	§ No. 162, 2000
CANTOR as Trustee of the	§
MONICA MUHART TRUST, and	§
IRIS CANTOR as Trustee of the	§ Court Below-Court of Chancery
RANDI ROSS TRUST, CANTOR	§ of the State of Delaware,
FITZGERALD INCORPORATED,	§ in and for New Castle County
RODNEY FISHER, and MARKET	§ C.A. No. 16297
DATA CORPORATION,	§
	§
Defendants Below-	§
Appellants,	§
	§
v.	§
	§
CANTOR FITZGERALD, L.P.,	§
	§
Plaintiff Below-	§
Appellee.	§
	§
	§

Submitted: April 14, 2000

Decided: May 8, 2000

Before **HOLLAND**, **HARTNETT** and **BERGER**, Justices

**ORDER**

This 8th day of May 2000, it appears to the Court that:

(1) Defendants-appellants, Iris Cantor et al. (“Cantor appellants”), filed a notice of appeal from a Memorandum Opinion and Order of the Court of Chancery dated March 13, 2000.<sup>1</sup> The Court of Chancery found that defendants-appellants Iris Cantor, Cantor Fitzgerald Incorporated and Rodney Fisher breached a contractually-imposed fiduciary duty of loyalty to the limited partners of CFLP and that defendant-appellant Market Data Corporation aided and abetted the breach of fiduciary duty and tortiously interfered with the partnership agreement. The Court of Chancery held that CFLP was entitled to declaratory relief and an unspecified amount of attorney’s fees and expenses. In their notice of appeal, the Cantor appellants state that they do not believe the Order of the Court of Chancery is final because damages have not yet been awarded and it is anticipated that post-trial motions will be filed.

(2) It appears that CFLP has filed a proposed form of declaratory judgment order and an application for attorney’s fees and expenses in the Court of Chancery. It also appears that the Cantor appellants intend to respond to CFLP’s proposed form of order and application for fees and expenses.

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<sup>1</sup>Plaintiff-appellee Cantor Fitzgerald, L.P. (“CFLP”), subsequently filed a cross appeal.

(3) Absent compliance with Supreme Court Rule 42, the jurisdiction of this Court is limited to the review of final judgments of trial courts.<sup>2</sup> An order is deemed final if the trial court has clearly declared its intention that the order be the court's "final act" in the case.<sup>3</sup> At the time the Cantor appellants filed this appeal in this Court, the Court of Chancery had not yet ruled on CFLP's application for fees and expenses,<sup>4</sup> nor had it considered any post-trial motions. The parties' right of appeal remains intact until the Court of Chancery has disposed of all matters.<sup>5</sup>

(4) Since the Court of Chancery has not disposed of all matters before it, its March 13, 2000 decision is interlocutory. The Cantor appellants did not comply with the provisions of Supreme Court Rule 42. Therefore, their appeal must be dismissed. For the same reason, CFLP's cross appeal must also be dismissed.

NOW, THEREFORE, IT IS ORDERED that the appeal and cross appeal are hereby DISMISSED.

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<sup>2</sup>*J.I. Kislak Mortgage Corporation of Delaware v. William Matthews, Builder, Inc.*, Del. Supr., 303 A.2d 648, 650 (1973).

<sup>3</sup>*Id.* at 650.

<sup>4</sup>*Wheeler v. Wheeler*, Del. Supr., 599 A.2d 414 (1991).

<sup>5</sup>*Glenn v. Schlerf*, Del. Supr., 604 A.2d 417 (1991).

BY THE COURT:

/s/Maurice A. Hartnett, III

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Justice