

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of Claimants

David B. Pecovish and Deborah L. Pecovish,
Individually and as Custodians for Justin
Pecovish, UPAUTMA and Whitney Pecovish,
UPAUTMA

vs.

Case Number: 05-04912

Hearing Site: Pittsburgh, Pennsylvania

Names of Respondents

NFI Network, LLC; Network for Financial
Independence, LLC; David E. Martin;
Paulette Thomas; and Daniel Frederick Rae

Name of Counter-Claimants

Paulette Thomas and Daniel Frederick Rae

Vs.

Names of Counter-Respondents

David B. Pecovish and Deborah L. Pecovish,
Individually and as Custodians for Justin
Pecovish, UPAUTMA and Whitney Pecovish,
UPAUTMA

NATURE OF THE DISPUTE

Customers vs. Terminated-Member, Associated Persons, and Non-Member

REPRESENTATION OF PARTIES

David B. Pecovish and Deborah L. Pecovish, Individually and as Custodians for Justin Pecovish, UPAUTMA and Whitney Pecovish, UPAUTMA, hereinafter collectively referred to as "Claimants," were represented by Robert H. Goehring, Esq., Pittsburgh, Pennsylvania.

NFI Network, LLC ("NFI"), Network for Financial Independence, LLC ("Network"), David E. Martin ("Martin"), Paulette Thomas ("Thomas"), and Daniel Frederick Rae ("Rae"), hereinafter collectively referred to as "Respondents," were represented by Robert K. Ross, Esq., The Hamburger Law Firm, Teaneck, New Jersey.

CASE INFORMATION

The Statement of Claim was filed on or about September 20, 2005. The Submission Agreements of Claimants were signed on or about September 15, 2005. The Amended Statement of Claim was filed on or about February 9, 2006.

The Notice of Bankruptcy Case Filing was filed by Respondent Martin on or about March 7, 2006.

A Statement of Answer and Counterclaim was filed by Respondents, Thomas and Rae, on or about May 4, 2006. The Submission Agreement of Respondent Thomas was signed on or about May 4, 2006. The Submission Agreement of Respondent Rae was signed on or about May 3, 2006. A Pre-Hearing Brief was filed by Respondents, Thomas and Rae, on or about September 22, 2006.

The Statement of Answer to the Counterclaim was filed by Claimants on or about June 7, 2006.

CASE SUMMARY

Claimants asserted the following causes of action: common law fraud; misrepresentation; common law agency/respondeat superior; breach of contract; violation of the Pennsylvania Securities Act; violation of the Pennsylvania Consumer Protection Law; violation of the Pennsylvania Unfair Trade Practices Act; and breach of fiduciary duty. The causes of action related to the recommendation and sale of the annuity won by Claimants in the Pennsylvania Lottery and the use of the lump sum proceeds to purchase additional investments.

Unless specifically admitted in their Answer, Respondents Thomas and Rae denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim failed to state a claim upon which relief may be granted; Claimants' claims are barred by the doctrines of waiver, laches and/or estoppel; Claimant's claims are barred by the doctrine of unclean hands; Claimants' losses, if any, are the result of their own conduct, actions or inaction; Claimants failed to mitigate their damages, if any; Thomas and Rae were not principals or shareholders in the defendant companies and thus had no supervisory authority over Martin; Thomas and Rae had no responsibility for the Claimants' accounts; any actions taken by Thomas and Rae with respect to Claimants' accounts were taken solely at the direction of Martin or the Claimants themselves; and

Thomas and Rae are entitled to recover all costs and attorneys' fees incurred because any and all claims alleged in the Statement of Claim are frivolous, unreasonable and without foundation.

Thomas and Rae asserted the following causes of action in their Counterclaim: violation of Pennsylvania C.S.A. §8351 et seq. and wrongful use of civil proceedings. These causes of action related to the filing of the claims against Thomas and Rae. Thomas and Rae alleged that the Claimants wrongfully initiated the claims for the purpose of harassment and to bring malicious injury to these Respondents.

Unless specifically admitted in their Answer, Claimants denied the allegations made in the Counterclaim.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$235,442.68
Exemplary/Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents Thomas and Rae requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees, plus such further relief as the Panel deemed equitable.

In the Counterclaim, Thomas and Rae requested an award in the amount of:

Actual/Compensatory Damages	Unspecified
Exemplary/Punitive Damages	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Claimants requested that the claims in the Counterclaim asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

On or about March 7, 2006, Respondent Martin filed with NASD Dispute Resolution a Notice of Bankruptcy Case Filing advising that he had filed a bankruptcy case on October

14, 2005. Pursuant to §362 of the Bankruptcy Code, the claim against Martin was stayed and no further action was taken against this Respondent.

Respondent NFI Network, LLC did not file with the NASD Dispute Resolution a properly executed Uniform Submission Agreement or Statement of Answer, but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

Respondent Network for Financial Independence, LLC is a non-member of the NASD and did not voluntarily submit to arbitration of this matter.

On or about September 22, 2006, in the Pre-Hearing Brief was filed by Respondents, Thomas and Rae, the Panel was notified that pursuant to a Mutual release executed by the parties, the claims against Respondent Thomas had been voluntarily dismissed.

At hearing, Rae moved for and requested expungement of this claim from his CRD record. Rae's Motion and Request for Expungement is denied.

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 the evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondent, NFI Network, LLC, is liable for and shall pay to the Claimants, David B. Pecovish and Deborah L. Pecovish, Individually and as Custodians for Justin Pecovish, UPAUTMA and Whitney Pecovish, UPAUTMA, the sum of \$100,000.00 in compensatory damages;
- 2.) Claimants' claims against Respondents, Paulette Thomas and Daniel Frederic Rae, are hereby denied and dismissed with prejudice;
- 3.) Claimants' claims against Respondent, Network for Financial Independence, LLC, are dismissed without prejudice;
- 4.) Pursuant to the bankruptcy stay, no determination was made in regard to Claimants' claims against Respondent David E. Martin;
- 5.) The Counterclaim of Respondents, Paulette Thomas and Daniel Frederic Rae, is denied and dismissed with prejudice;

- 6.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 7.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial Claim filing fee	= \$	300.00
Counterclaim filing fee	= \$	250.00

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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is NFI Network, LLC.

Member surcharge	= \$	1,700.00
Pre-hearing process fee	= \$	750.00
Hearing process fee	= \$	2,750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each hearing session conducted or each decision rendered on a discovery-related motion on the papers. A 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 a single arbitrator x \$450.00	= \$	900.00
Pre-hearing conferences: August 30, 2006	1 session	
September 13, 2006	1 session	
One (1) Pre-hearing session with Panel x \$1,125.00	= \$	1,125.00
Pre-hearing conference: May 9, 2006	1 session	
Four (4) Hearing sessions x \$1,125.00	= \$	4,500.00
Hearing Dates: September 26, 2006	2 sessions	

September 27, 2006 2 sessions

Total Forum Fees = \$ 6,525.00

The Panel has assessed \$3,262.50 of the forum fees jointly and severally to the Claimants, David B. Pecovish and Deborah L. Pecovish, Individually and as Custodians for Justin Pecovish, UPAUTMA and Whitney Pecovish, UPAUTMA.

The Panel has assessed \$3,262.50 of the forum fees jointly and severally to Respondents, NFI Network, LLC and Daniel Frederick Rae.

FEE SUMMARY

Claimants, David B. Pecovish and Deborah L. Pecovish, Individually and as Custodians for Justin Pecovish, UPAUTMA and Whitney Pecovish, UPAUTMA, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 3,262.50
Total Fees	= \$ 3,562.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 2,137.50

Respondent, NFI Network, LLC, is liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 5,200.00

Respondents, Paulette Thomas and Daniel Frederick Rae, are jointly and severally liable for:

Counterclaim Filing Fee	= \$ 250.00
Total Fees	= \$ 250.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 250.00

Respondents, NFI Network, LLC and Daniel Frederick Rae, are jointly and severally liable for:

Forum Fees	= \$ 3,262.50
Total Fees	= \$ 3,262.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,262.50

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Michael S. Berman - Public Arbitrator, Presiding Chair
Walter J. Blenko, Jr. - Public Arbitrator
Nancy J. Rosen - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

Michael S. Berman
Public Arbitrator, Presiding Chair

Signature Date

Walter J. Blenko, Jr.
Public Arbitrator

Signature Date

Nancy J. Rosen
Non-Public Arbitrator

Signature Date

10/26/06 KLM
Date of Service (For NASD office use only)

ARBITRATION PANEL

Michael S. Berman - Public Arbitrator, Presiding Chair
Walter J. Blenko, Jr. - Public Arbitrator
Nancy J. Rosen - Non-Public Arbitrator

Concurring Arbitrators' Signatures:



Michael S. Berman
Public Arbitrator, Presiding Chair


10/23/06
Signature Date

Walter J. Blenko, Jr.
Public Arbitrator

Signature Date

Nancy J. Rosen
Non-Public Arbitrator

Signature Date

10/26/06 

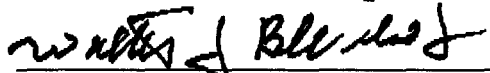
Date of Service (For NASD office use only)

ARBITRATION PANEL

Michael S. Berman - Public Arbitrator, Presiding Chair
Walter J. Blenko, Jr. - Public Arbitrator
Nancy J. Rosen - Non-Public Arbitrator

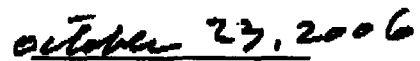
Concurring Arbitrators' Signatures:

Michael S. Berman
Public Arbitrator, Presiding Chair



Walter J. Blenko, Jr.
Public Arbitrator

Signature Date



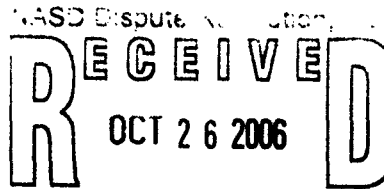
Signature Date

Nancy J. Rosen
Non-Public Arbitrator

Signature Date



Date of Service (For NASD office use only)



ARBITRATION PANEL

Michael S. Berman - Public Arbitrator, Presiding Chair
Walter J. Blenko, Jr. - Public Arbitrator
Nancy J. Rosen - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

Michael S. Berman
Public Arbitrator, Presiding Chair

Signature Date

Walter J. Blenko, Jr.
Public Arbitrator

Signature Date

Nancy J. Rosen
Non-Public Arbitrator

October 4-2006
Signature Date

Nancy J. Rosen
Date of Service (For NASD office use only)

10/26/06 mcr