

**NASD REGULATION AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

**Name of Claimant**

John F. Hopkins, Sr.

96-04163

**Name of Respondents**

G.R. Stuart & Company, Inc.  
Greg R. Stuart

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**REPRESENTATION**

For Claimant John F. Hopkins, Sr. ("claimant") appeared Derek Hopkins.

For Respondents G.R. Stuart & Company, Inc. and Greg R. Stuart ("respondents") appeared Greg R. Stuart.

**CASE INFORMATION**

Statement of Claim was filed on: September 16, 1996.

Claimant's Submission Agreement was signed on: September 1, 1996.

Joint Statement of Answer was filed by Respondents on: November 13, 1996.

Respondent Greg R. Stuart's Submission Agreement was signed on: November 12, 1996.

Respondent G.R. Stuart & Company, Inc.'s Submission Agreement was signed on:  
November 12, 1996.

**HEARING INFORMATION**

Pre-Hearing Conference: February 19, 1996 - 1 session

Hearing Date/Sessions: March 6, 1997 - 2 sessions

The hearing was conducted at the offices of NASD Regulation, Inc. located in Boston, Massachusetts.

### CASE SUMMARY

Claimant alleged that, in 1993, respondents offered him a position as an "at-home" Associate and that their arrangement provided for him to establish a fully-functional office out of his home. Claimant contended that respondents agreed to coordinate with him all of the various state licensing procedures and that he provided respondents with \$1,453.00 for his employment affiliation fee and other state license fees which respondents applied for on his behalf. In addition, claimant contended that respondents made repeated representations to him that transferring his license would not be a problem. Claimant further alleged that, in reliance upon respondents' representations, he completely outfitted his home office at a cost in excess of \$7,000.00 and informed his entire client base of his new position and employment affiliation.

In addition, claimant maintained that, in August, 1993, after he was diagnosed with Multiple Sclerosis, he promptly notified respondents of his condition and informed them that his condition would not affect his ability to work. Claimant contended, however, that immediately thereafter, respondents began treating him differently. Specifically, claimant maintained that throughout July and August he had contact with respondents on an almost daily basis but, after disclosing his condition, no one was ever available to meet with him and his phone calls were not accepted. In addition, claimant contended that, although he was previously assured that the transfer of his license would not take longer than one month, the waiting period doubled in length. Claimant further alleged that even after the approval and transfer of his license were finalized, attempts to communicate with respondents were inexplicably refused.

Claimant also contended that, in October, 1993, on the day after his license was officially approved and transferred, respondents terminated him. Claimant alleged that, although he had been actively counseling his client base in anticipation of his license approval and transfer, the U-5 indicated a "voluntary resignation". In addition, claimant contended that attached to the U-5 were several letters from various state licensing offices which were unanswered by respondents. Claimant maintained that, although some of these letters were personally addressed to him, respondents unlawfully withheld them from him for several months. Further, claimant alleged that respondents negligently or willfully failed to coordinate the state licensing requirements for which he had paid them and for which they had agreed to perform.

Respondents alleged that claimant represented that he could be an "independent contractor" and that he would have no problems in getting licensed. Respondents contended, however, that as they attempted to license claimant, several of the state securities regulators conditioned the licensing of claimant upon respondents giving claimant "special supervision." Respondents maintained that the operations of its firm were structured toward the "independent contractor" registered representative and that this structure did not allow respondents to provide special supervision to a registered representative. Respondents further contended that, if claimant suffered any damages, such loss was caused by claimant's own actions, his own disciplinary history, concealment of this history from respondents, and his own misrepresentations.

### **RELIEF REQUESTED**

Claimant requested \$600,000.00 in actual damages.

Respondents requested that all claims be dismissed in their entirety.

### **OTHER ISSUES CONSIDERED & DECIDED**

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. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable to claimant in the amount of **THIRTY FIVE THOUSAND ONE HUNDRED THREE DOLLARS and NINE CENTS**. (\$35,103.09) plus interest at the rate of 8% from September 16, 1996.
2. Respondents are jointly and severally liable for all forum fees assessed and shall pay claimant the sum of \$1,000.00 to reimburse claimant for the hearing session deposit which was previously deposited with NASD Regulation, Inc.
3. All other requests are hereby denied.

### **FORUM FEES**

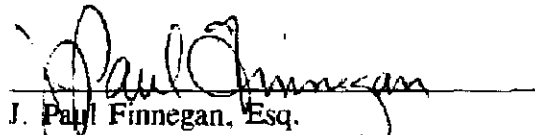
Pursuant to Rule 10205(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$500.00 non-refundable filing fee previously paid by claimant and have assessed the following forum fees:

1 pre-hearing session	=	\$ 300.00
<u>2 hearing sessions x \$1,000.00</u>	=	<u>\$2,000.00</u>
Total Forum Fees	=	\$2,300.00

Respondents are jointly and severally liable for \$2,300.00, representing the total forum fees assessed. Claimant has previously deposited \$1,000.00 with NASD Regulation and, therefore, respondents shall pay NASD Regulation \$1,300.00.

Fees are payable to NASD Regulation, Inc.

Arbitrators' Signatures

  
J. Paul Finnegan, Esq.  
Chairperson

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John A. Scudiero  
Panelist

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Francis C. Cleary, Jr. Esq.  
Panelist

Date of Decision: July 8, 1997

Arbitrator's Signatures

J. Paul Hennessey, Esq.  
Chairman

John A. Scharf  
Panelist

Francis C. Cliney, Jr. Esq.  
Panelist

Date of Decision July 8, 1997


Arbitrators' Signatures

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J. Paul Finnegan, Esq.  
Chairperson

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John A. Scudiero  
Panelist



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Francis C. Cleary, Jr. Esq.  
Panelist

Date of Decision: July 8, 1997