

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Iain Horsburgh, Steven W. McConnell and Gerald N. Daffner (Claimants) vs. Ridgewood Capital Funding, Inc. and William Potter (Respondents)

Case Number: 98-00429

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, Iain Horsburgh ("Horsburgh"): Catherine A. Helwig, Esq., Snow Becker Krauss P.C., New York, NY. Previously represented by: Gerald N. Daffner, Esq., Lawrence and Walsh, PC, Hempstead, NY.

Claimant, Steven W. McConnell ("McConnell"): Mitchell S. Drucker, Esq., Thacher Proffitt & Wood, New York, NY. Previously represented by: Gerald N. Daffner, Esq., Lawrence and Walsh, PC, Hempstead, NY.

Claimant, Gerald N. Daffner, Esq. ("Daffner"), appeared *pro se*.

Respondents, Ridgewood Capital Funding, Inc. ("Ridgewood") and William J. Potter ("Potter"), hereinafter collectively referred to as "Respondents": Thomas J. Luz, Esq., Pearce & Luz LLP, New York, NY. Previously represented by Mr. Luz at Epstein Becker & Green, P.C., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: January 28, 1998.

Horsburgh signed the Uniform Submission Agreement: January 28, 1998.

McConnell signed the Uniform Submission Agreement: January 28, 1998.

Daffner signed the Uniform Submission Agreement: January 28, 1998.

Amended Statement of Claim filed by Horsburgh on or about: June 18, 1998.

Reply to Counterclaim filed by Horsburgh on or about: May 14, 1998.

Reply to Counterclaim concerning Shared Technologies filed by Horsburgh on or about: December 15, 1999.

Amended Statement of Claim filed by McConnell on or about: June 15, 1998.

Reply to Counterclaim filed by McConnell on or about: June 15, 1998.

Amended Statement of Claim filed by Daffner on or about: June 16, 1998.
Reply to Counterclaim filed by Daffner on or about: June 16, 1998.

Statement of Answer and Counterclaim filed by Respondents on or about: April 15, 1998.
Statement of Answer to McConnell's, Horsburgh's, and Daffner's Amended Statement of Claims filed by Respondents on or about: August 5, 1998.
Statement of Answer to Amended Statement of Claims and Counterclaim filed by Respondents on or about: November 19, 1999.
Ridgewood did not sign the Uniform Submission Agreement.
Potter signed the Uniform Submission Agreement: April 15, 1998.

CASE SUMMARY

Claimants asserted the following causes of action: dilution of Claimants' ownership interests in Ridgewood and refusal to distribute compensation to Claimants.

In his Amended Statement of Claim, Horsburgh asserted the following causes of action: breach of contract; fraud; and defamation.

In his Amended Statement of Claim, McConnell asserted the following causes of action: misappropriation of funds; breach of fiduciary duties; and breach of revenue sharing agreements.

In his Amended Statement of Claim, Daffner asserted the following causes of action: misappropriation of funds; refusal to honor obligations under the revenue sharing agreements; and failure to honor fiduciary duties.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants would be unjustly enriched if their shareholdings were restored without regard to Potter's capital contribution; the issuance of additional shares to Potter was a valid, lawful act of Ridgewood's board; Potter may not be deprived of his shares without due process of law and full compensation; Ridgewood is under no duty to make distributions to Claimants; Respondents have acted in a commercially reasonable manner at all times; each of Potter's representations about Horsburgh was true; Potter's statements about Horsburgh were privileged; no statement of Potter about Horsburgh was published; and Horsburgh's defamation claim is barred by the doctrine of unclean hands and by the applicable statute of limitations.

In their Counterclaim, Respondents asserted the following causes of action: breach of duty to maintain Ridgewood's books and records; negligence; breach of fiduciary duty; defamation; and Horsburgh and Daffner tortiously and maliciously prevented Potter from receiving just compensation.

Unless specifically admitted in his Replies, Horsburgh denied the allegations made in the Counterclaim and asserted the following defenses: the Counterclaim is barred on the grounds of waiver, laches, estoppel, and ratification.

Unless specifically admitted in his Reply, McConnell denied the allegations made in the Counterclaim and asserted the following defenses: McConnell was not guilty of any wrongdoing which was a proximate cause of any damages of which Respondents complain; Respondents were guilty of the sole negligence which was the proximate cause of the damages complained of; the Counterclaims are barred by contributory negligence; the alleged damages to Respondents resulted, if at all, from circumstances and conditions beyond the control of McConnell; the alleged damages set forth in the Counterclaim were caused, if at all, by and arose out of risks which Respondents had full knowledge of and which they assumed; the alleged damages set forth in the Counterclaim are the proximate result of the acts and/or omissions of parties over which McConnell exercised no control; Respondents failed to mitigate their damages; the Counterclaims are barred because of Respondents' ratification and consent; and the Counterclaims are barred by the doctrines of estoppel, waiver, and unclean hands.

Unless specifically admitted in his Reply, Daffner denied the allegations made in the Counterclaim and asserted the following defenses: Daffner was not guilty of any wrongdoing which was a proximate cause of any damages of which Respondents complain; Respondents were guilty of the sole negligence which was the proximate cause of the damages complained of; the Counterclaims are barred by contributory negligence; the alleged damages to Respondents resulted, if at all, from circumstances and conditions beyond the control of Daffner; the alleged damages set forth in the Counterclaim were caused, if at all, by and arose out of risks which Respondents had full knowledge of and which they assumed; the alleged damages set forth in the Counterclaim are the proximate result of the acts and/or omissions of parties over which Daffner exercised no control; Respondents failed to mitigate their damages; the Counterclaims are barred because of Respondents' ratification and consent; and the Counterclaims are barred by the doctrines of estoppel, waiver, and unclean hands.

RELIEF REQUESTED

In their Statement of Claim, Claimants requested a determination that Claimants are shareholders in the proportion set forth in the stock certificates of Ridgewood; monetary damages of not less than \$50,000.00; punitive damages as allowed by law; attorneys' fees; interest; and such other and further relief as the Panel deems appropriate.

In his Amended Statement of Claim, Horsburgh requested compensatory damages totaling \$11,228,023.05; plus 12.5% of all revenues which Ridgewood received for deals in which it participated after March 1, 1996; punitive damages in the amount of \$50,000.00; and interest.

In his Amended Statement of Claim, McConnell requested compensatory damages totaling \$10,041,898.05; 25% of the warrants received by Potter on Ridgewood's behalf in connection with the Battery Technology deal; 12.5% of all revenues which Ridgewood received for deals in which it participated after March 1, 1996; interest; and such other relief as is just and proper.

In his Amended Statement of Claim, Daffner requested compensatory damages totaling \$2,016,492.00; 5% of the cash and warrants received by Potter on Ridgewood's behalf in connection with the Battery Technology deal; 5% of all revenues which Ridgewood received for deals in which it participated after March 1, 1996; interest; and such other relief as is just and proper.

Respondents requested an Award dismissing Claimants' claims in their entirety; compensatory damages totaling \$432,000.00 in favor of Ridgewood and against McConnell and Daffner; compensatory damages in the amount of \$1,000,000.00 in favor of Potter and against Horsburgh; and such other and further relief as the Panel may deem just and proper.

In his Replies to the Counterclaim, Horsburgh requested that the Panel issue an Award: (i) denying Respondents any of their requests for relief; (ii) dismissing Respondents' Counterclaims against him; and (iii) granting Horsburgh's requests for relief in their entirety.

In his Reply to the Counterclaim, McConnell requested an Award: (i) dismissing Respondents' claims against him in their entirety, with prejudice; (ii) granting him the relief requested in his claim in its entirety; and (iii) of such other and further relief as is just and proper.

In his Reply to the Counterclaim, Daffner requested an Award: (i) dismissing Respondents' claims against him in their entirety, with prejudice; (ii) granting him the relief requested in his claim in its entirety; and (iii) of such other and further relief as is just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Ridgewood did not file with NASD Dispute Resolution, Inc. a properly executed submission agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On September 17, 1999, McConnell informed NASD Dispute Resolution that he and Respondents had settled their claims against each other.

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

1. Claimants' claims are hereby denied in their entirety.
2. Respondents' Counterclaims are hereby denied in their entirety.
3. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 500.00
Counterclaim filing fee	= \$ 500.00

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, Ridgewood Capital Funding, Inc. is a party.

Member surcharge	= \$ 800.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 4,500.00

Adjournment Fees

Adjournments requested during these proceedings:

December 13, 14, 15 & 16, 1999, adjournment by Respondents	= \$ 1,500.00
May 23, 24 & 25, 2000, adjournment by Daffner	= WAIVED

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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:

Four (4) pre-hearing sessions with Panel x \$1,500.00 = \$ 6,000.00

Pre-hearing conferences:	September 14, 1999	1 session
	November 1, 1999	1 session
	December 17, 1999	1 session
	May 30, 2000	1 session

Twenty (20) Hearing sessions x \$1,500.00 = \$30,000.00

Hearing Dates:	July 27, 2000	2 sessions
	July 28, 2000	2 sessions
	August 1, 2000	2 sessions
	August 2, 2000	2 sessions
	August 3, 2000	1 session
	September 12, 2000	2 sessions
	September 13, 2000	2 sessions
	September 19, 2000	1 session
	October 27, 2000	2 sessions
	November 8, 2000	2 sessions
	December 20, 2000	2 sessions

Total Forum Fees = \$36,000.00

The Panel has assessed all of the forum fees jointly and severally against Horsburgh and Daffner.

Fee Summary

1. Claimants be and hereby are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 500.00
<u>Total Fees</u>	= \$ 500.00
<u>Less payments</u>	= \$ 900.00
<u>Refund Due McConnell</u>	= \$ 400.00

2. Horsburgh and Daffner be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$36,000.00
<u>Total Fees</u>	= \$36,000.00
<u>Less payments</u>	= \$ 1,100.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$34,900.00

3. Ridgewood be and hereby is solely liable for:

<u>Member Fees</u>	= \$5,900.00
<u>Total Fees</u>	= \$5,900.00
<u>Less payments</u>	= \$5,900.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$ 0.00


4. Respondents be and hereby are jointly and severally liable for:

<u>Counterclaim Filing Fee</u>	= \$ 500.00
<u>Adjournment Fee</u>	= \$ 1,500.00
<u>Total Fees</u>	= \$ 2,000.00
<u>Less payments</u>	= \$ 2,500.00
<u>Refund Due Respondents</u>	= \$ 500.00

All balances are due and payable to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



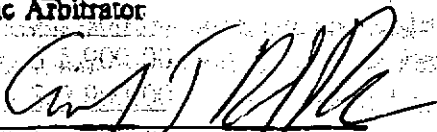
Brian J. Burstin, Esq.
Public Arbitrator, Presiding Chair

2/1/01

Signature Date

Marjorie Levine
Public Arbitrator

Signature Date



Anthony J. Del Re, Jr.
Industry Arbitrator

2/2/01

Signature Date
Anthony J. Del Re, Jr.
Industry Arbitrator

February 8, 2001

Date of Service (For NASD office use only)

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Brian J. Burstin, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Marjorie Levine
Marjorie Levine
Public Arbitrator

2/6/01
Signature Date

Anthony J. Del Re, Jr.
Industry Arbitrator

Signature Date

February 8, 2001

Date of Service (For NASD office use only)