

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

John R. Paine, (Claimant) vs. First Providence Financial Group, Inc., First Providence Financial Group, LLC, Paul G. Wasserman, and Richard Bredhoff, (Respondents)

Case Number: 99-01537

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, John R. Paine, hereinafter referred to as "Claimant": Edward G. Toptani, Esq., Toptani Law Offices, New York, NY.

Respondents, First Providence Financial Group, Inc. ("FPFG, Inc."), First Providence Financial Group, LLC ("FPFG, LLC"), and Paul G. Wasserman ("Wasserman"): Richard Slavin, Esq., Cohen and Wolf, P.C., Bridgeport, CT. Previously represented by: Barry R. Lax, Esq., Goldstein & DiGioia, LLP, New York, NY.

Respondent, Richard Bredhoff ("Bredhoff"), appeared *pro se*.

CASE INFORMATION

Statement of Claim filed on or about: March 29, 1999.

Reply to Counterclaim filed by Claimant on or about: December 6, 2001.

Claimant signed the Uniform Submission Agreement: March 24, 1999.

Statement of Answer filed by FPFG, Inc. and FPFG, LLC on or about: October 15, 2001.

Counterclaim filed by FPFG, LLC on or about: October 15, 2001.

FPFG, Inc. did not sign a Uniform Submission Agreement.

FPFG, LLC did not sign a Uniform Submission Agreement.

Statement of Answer filed by Wasserman on or about: June 30, 1999.

Wasserman signed the Uniform Submission Agreement: June 30, 1999.

Statement of Answer filed by Bredhoff on or about: August 6, 2001.

Bredhoff did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contractual and legal duties; fraudulent and deceptive conduct; excessive trading; misrepresentations; unsuitability; failure to execute; unauthorized commissions; market manipulation; failure to supervise; negligence; and breach of fiduciary duty. Claimant's claim involved the stocks of Software Publishing Corp. Holdings f/k/a Allegro New Media, Jenna Lane Inc., Surge Components, A WTS Community Care Services, Multimedia Games Inc., On-Point Technology Systems Inc., and Commodore Holdings.

Unless specifically admitted in their Answer, FPFPG, Inc. and FPFPG, LLC denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim fails to state a claim upon which relief may be granted; Claimant's claims are barred by the doctrines of waiver and ratification; Claimant failed to mitigate his damages; the Statement of Claim fails to establish jurisdiction of NASD Dispute Resolution or the arbitration Panel to hear this claim as FPFPG, LLC did not have a customer-broker relationship with Claimant; Claimant's claims are barred by the applicable statutes of limitation; and to the extent that Claimant asks the Panel to grant equitable relief, that relief is barred by Claimant's unclean hands.

In its Counterclaim, FPFPG, LLC asserted the following cause of action: frivolous and speculative prosecution.

Unless specifically admitted in his Reply, Claimant denied the allegations made in the Counterclaim and asserted the following defenses: the Counterclaim fails to state a claim upon which relief may be granted; FPFPG, LLC has failed to produce a single document supporting its defense that it was not a valid party to this arbitration; and only through the fact-finding process of an arbitration can a reasonable decision be made by the Panel as to whether FPFPG, LLC is a proper Respondent in this arbitration.

Unless specifically admitted in his Answer, Wasserman denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim fails to state a cause of action against Wasserman upon which relief may be granted; the Statement of Claim is barred by the doctrines of estoppel, waiver, laches, and ratification; the Statement of Claim is barred by Claimant's failure to mitigate his damages; the Statement of Claim is barred by Claimant's assumption of risks inherent in all securities transactions; any damages allegedly sustained by Claimant were caused, in whole or in part, by Claimant's culpable conduct or negligent acts and/or omissions; the Statement of Claim is barred by Article III, Section 27, of the NASD Rules of Fair Practice in that a system was established and maintained to supervise the activities of registered representatives which was reasonably designed to achieve compliance with applicable securities laws and regulations, and with the

rules of the NASD; the Statement of Claim is barred by the applicable statute of limitations and/or limitations period; the Statement of Claim is barred by statute and judicial opinion; the Statement of Claim is barred by Claimant's unclean hands; and the Statement of Claim is barred by Claimant's violation of the NASD Code of Arbitration Procedure.

Unless specifically admitted in his Answer, Bredhoff denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim is full of inadequacies, assumptions, and misstatements; Bredhoff left the firm the morning after the first trade in question was placed, and therefore was not even employed there during most of the time period in dispute; and Bredhoff properly attended to Claimant's needs during the limited dealings he had with Claimant.

RELIEF REQUESTED

Claimant requested:

- a. Compensatory damages in the approximate amount of \$240,664.22, including trading losses of \$234,905.25 and commissions of \$5,758.97;
- b. Pre-judgment gain on the compensatory damages mimicking the increase in the Dow Jones Industrial Average during the relevant time period to compensate for the appreciation Claimant should realistically have earned on such amounts;
- c. Compensation for all costs and fees associated with this proceeding, including costs and expenses of expert witnesses;
- d. Compensation in a reasonable amount for attorneys' fees;
- e. Punitive or exemplary damages in the amount of \$750,000.00; and
- f. Such other relief as the Panel believes to be appropriate under the circumstances.

FPPG, Inc. and FPPG, LLC requested that the Panel dismiss the Statement of Claim against them.

In its Counterclaim, FPPG, LLC requested unspecified punitive damages, attorneys' fees, and costs.

In his Reply, Claimant requested that the Counterclaim be denied in its entirety.

Wasserman requested that the Statement of Claim be dismissed, that he be awarded his costs and reasonable attorneys' fees incurred in defending this meritless claim, and such other relief as the Panel deems just and appropriate.

Bredhoff requested that he be dismissed from this arbitration.

OTHER ISSUES CONSIDERED AND DECIDED

FPFG, Inc., FPFG, LLC, and Bredhoff did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

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. FPFG, Inc., FPFG, LLC, and Wasserman be and hereby are jointly and severally liable for and shall pay to Claimant the sum of \$129,322.00 as compensatory damages, plus interest at the rate of 9% accruing from March 29, 1999 until paid.
2. All claims against Bredhoff are hereby dismissed.
3. The Counterclaim filed by FPFG, LLC is hereby denied.
4. 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	= \$ 375.00
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 person at the time of the events giving rise to the dispute. In this matter, First Providence Financial Group, LLC is a party.

Member surcharge	= \$ 2,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 3,500.00

Adjournment Fees

Adjournments requested during these proceedings:

Nov. 26, 27 & 28, Dec. 6 & 7, 2001, adjournment by FPFG, Inc., FPFG, LLC, and Wasserman	= \$ 1,200.00
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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:

Three (3) Pre-hearing sessions with Panel x \$1,200.00 = \$ 3,600.00

Pre-hearing conferences:	June 4, 2001	1 session
	July 30, 2001	1 session
	November 8, 2001	1 session

Eleven (11) Hearing sessions x \$1,200.00 = \$13,200.00

Hearing Dates:	January 29, 2002	2 sessions
	January 30, 2002	2 sessions
	January 31, 2002	2 sessions
	May 1, 2002	2 sessions
	May 2, 2002	3 sessions

Total Forum Fees = \$16,800.00

1. The Panel has assessed \$4,200.00 of the forum fees against Claimant.
2. The Panel has assessed \$12,600.00 of the forum fees jointly and severally against FPFG, Inc., FPFG, LLC, and Wasserman.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	= \$ 4,200.00
Total Fees	= \$ 4,575.00
<u>Less payments</u>	= \$ 1,575.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 3,000.00

2. FPFG, LLC be and hereby is solely liable for:

Counterclaim Filing Fee	= \$ 500.00
<u>Member Fees</u>	= \$6,100.00
Total Fees	= \$6,600.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$6,600.00

3. FPFG, Inc., FPFG, LLC, and Wasserman be and hereby are jointly and severally liable for:

Forum Fees	= \$12,600.00
<u>Adjournment Fee</u>	= \$ 1,200.00
Total Fees	= \$13,800.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$13,800.00


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

ARBITRATION PANEL

Seth T. Taube, Esq.	-	Public Arbitrator, Presiding Chair
Sherri L. Hughes, Esq.	-	Public Arbitrator
Kevin F. Cuddihy	-	Industry Arbitrator

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.



Seth T. Taube, Esq.
Public Arbitrator, Presiding Chair

6/20/02
Signature Date

Sherri L. Hughes, Esq.
Public Arbitrator

Signature Date

Kevin F. Cuddihy
Industry Arbitrator

Signature Date

July 1, 2002
Date of Service (For NASD office use only)

ARBITRATION PANEL

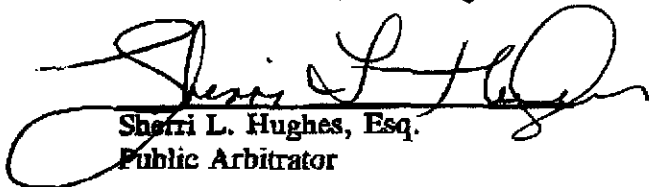
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Sherri L. Hughes, Esq.	-	Public Arbitrator
Kevin F. Cuddihy	-	Industry Arbitrator

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.

Seth T. Taube, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Sherri L. Hughes, Esq.
Public Arbitrator



June 27, 2002
Signature Date

Kevin F. Cuddihy
Industry Arbitrator

Signature Date

July 1, 2002
Date of Service (For NASD office use only)

ARBITRATION PANEL

Seth T. Taube, Esq.	-	Public Arbitrator, Presiding Chair
Sherri L. Hughes, Esq.	-	Public Arbitrator
Kevin F. Cuddihy	-	Industry Arbitrator

Concurring Arbitrators' Signatures

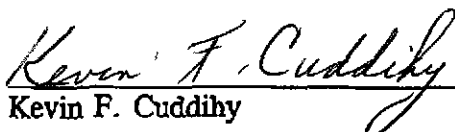
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Seth T. Taube, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Sherri L. Hughes, Esq.
Public Arbitrator

Signature Date


Kevin F. Cuddihy
Industry Arbitrator


Signature Date

July 1, 2002
Date of Service (For NASD office use only)