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BRAD W. VANNATTER, Complainant v. PEREGRINE FINANCIAL GROUP, INC., and JAMES FRANCIS KELLY, Respondents	)	CFTC Docket No. 03-R060 Served by Federal Express

FINAL DECISION

Complainant initiated this reparations case selecting a voluntary decisional proceeding, a choice concurred in by the respondents. In a voluntary proceeding, the parties submit their dispute on the papers only, waiving their right to present oral testimony. In addition, the judge is not authorized to conduct discovery on his own motion (see Rule 12.34), leaving the parties solely responsible for the development of the record. When the record is closed, the judge issues a Final Decision containing only a conclusion whether any violations of the Commodity Exchange Act have been proven, and, if so, a reparation award for any damages caused by such violations (see Rule 12.106(b)). The decision does not contain findings of fact or other evidentiary evaluations by the judge. The Final Decision is not appealable to the Commission or to any court.

In this matter, complainant alleges that respondents allowed him to overtrade (or "virtually churn") his own account over a two-year period. He contends that his descent into "financial hell" should have been prevented by respondents when his admittedly out-of-control trading became apparent. Respondents deny knowing that complainant was in financial straits and argue that they had no duty to protect complainant from himself.

Respondents took discovery, and both sides submitted verified final statements. On this record, it is determined that complainant has not carried his burden of demonstrating by a preponderance of the evidence that respondents committed any violations of the Commodity Exchange Act or of the Commission's regulations. Therefore, the complaint is DISMISSED.

Dated: February 6, 2004

Joel R. Maillie
Judgment Officer