

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Vladimir Gourevich and Gene Dvorkin, (Claimants) vs. Bluestone Capital Corporation f/k/a Whale Securities Co., Inc., Dmitry Aranovich, GKN Securities Corp., and Carlos Garceran, (Respondents)

Case Number: 00-04792

Hearing Site: Boston, Massachusetts

REPRESENTATION OF PARTIES

Claimants, Vladimir Gourevich ("Gourevich") and Gene Dvorkin ("Dvorkin"), hereinafter collectively referred to as "Claimants": Edward H. Glenn, Jr., Esq., Zamansky & Associates, New York, NY.

Respondent, Bluestone Capital Corporation f/k/a Whale Securities Co., Inc. ("Bluestone"): David S. Richan, Esq., Blank Rome Tenzer Greenblatt LLP, New York, NY.

Respondent, Dmitry Aranovich ("Aranovich"), appeared *pro se*.

Respondent, GKN Securities Corp. ("GKN"), did not appear at the hearings in this matter. Previously represented by: David S. Smith, Esq., Smith Campbell, LLP, New York, NY.

Respondent, Carlos Garceran ("Garceran"), did not appear at the hearings in this matter. Mr. Garceran originally appeared *pro se*.

CASE INFORMATION

Statement of Claim filed on or about: October 27, 2000.

Amended Statement of Claim filed on or about: July 18, 2001.

Claimants signed the Uniform Submission Agreement: October 27, 2000.

Statement of Answer and Motions to Dismiss filed by Bluestone on or about: April 30, 2001. Bluestone did not sign a Uniform Submission Agreement.

Aranovich did not file a Statement of Answer or sign a Uniform Submission Agreement.

Statement of Answer and Motion to Dismiss filed by GKN on or about: April 30, 2001.
GKN did not sign a Uniform Submission Agreement.

Statement of Answer filed by Garceran on or about: December 29, 2000.
Garceran signed the Uniform Submission Agreement: December 29, 2000.

CASE SUMMARY

Claimants asserted the following causes of action: securities fraud; churning; unauthorized trades; fraudulent misrepresentation; failure to supervise; breach of fiduciary duty; selling of unregistered securities; violations of federal, Massachusetts and New York state securities laws; and violations of SEC Rules, NYSE Rules, and the NASD Rules of Fair Practice. Claimants' claim involved a variety of stocks.

Unless specifically admitted in its Answer, Bluestone denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim fails to state a claim for which relief may be granted; the damages alleged in the Statement of Claim were caused solely, or contributed to, by Claimants' own negligence; if any damage or loss was sustained by Claimants, this damage or loss was caused, or contributed to, by Claimants' own actions, fault, or lack of diligence; Claimants acted in reckless disregard of facts of which they were, or should have been, aware and failed to exercise the required due care and diligence; Claimants, at all relevant times, had or should have had full knowledge of all material facts concerning their Bluestone account, including the positions maintained and the Transactions made therein; Gourevich authorized and directed the execution of all transactions in his securities account maintained with Bluestone; Gourevich authorized and ratified all transactions in his securities account maintained with Bluestone with full knowledge of all material facts with respect thereto; Claimants' claims are barred by applicable principles of waiver and ratification; Claimants waived the alleged claims set forth in the Statement of Claim, and the alleged damage resulting therefrom, by failing to take timely and appropriate action prior to incurring such damage; Bluestone, in discharging its duties to Claimants, acted in good faith and exercised at least that degree of care, diligence, and skill which ordinary prudent persons would exercise in similar circumstances and like positions; Claimants' claims are barred, in whole or in part, by the Statute of Frauds and by the applicable Statutes of Limitations; Bluestone's relationship with Gourevich was that of an ordinary broker/dealer to its client and, therefore, pursuant to New York law, no fiduciary duty existed; Bluestone acted in good faith and had no knowledge of or reasonable grounds to believe in the existence of facts which constituted the alleged violations or cause of actions; Bluestone had no knowledge of or reasonable grounds to believe in the existence of facts which allegedly give rise to the other Respondents' liability; and Bluestone appropriately supervised its employees.

RELIEF REQUESTED

Claimants requested:

1. Compensatory damages for Claimants' investment losses in the approximate amount of \$2,100,000.00;
2. Compensatory damages in the approximate amount of \$581,000.00, representing disgorgement of all commissions and margin interest paid to Respondents which has unjustly enriched them;
3. Compensatory damages in an amount to be determined at the hearing for Claimants' lost investment opportunity during the "bull market" from 1996-1999, representing the investment return which their funds would have earned had the funds been invested in a "well managed account";
4. Punitive damages in the amount of \$3,000,000.00, to deter and prevent Respondents from engaging in future similar conduct; and
5. Recovery of pre- and post-award interest, and Claimants' costs, expenses, expert's fees, attorneys' fees, and forum fees for this arbitration.

Bluestone requested an Award dismissing the claims contained in the Statement of Claim with prejudice as to it, and that the costs of this arbitration be assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

On August 10, 2001, Claimants entered into a settlement agreement with Garceran.

By letter dated December 5, 2001, Claimants advised NASD Dispute Resolution, Inc. that they had entered into a settlement agreement with GKN.

The Panel allowed Claimant Gourevich and Respondent Aranovich to testify via telephone at the hearings in this matter.

Bluestone, Aranovich, and GKN 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 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. Bluestone be and hereby is solely liable for and shall pay to Claimants the sum of \$320,000.00 as compensatory damages.
2. Aranovich be and hereby is solely liable for and shall pay to Claimants the sum of \$80,000.00 as compensatory damages.
3. Claimants' request for punitive damages is hereby denied.
4. Bluestone be and hereby is solely liable for and shall pay to Claimants the sum of \$600.00, to reimburse Claimants for the filing fee previously paid to NASD Dispute Resolution, Inc.
5. 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	= \$ 600.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. In this matter, Bluestone Capital Corporation f/k/a Whale Securities Co., Inc. and GKN Securities Corp. are parties.

Bluestone Capital Corporation f/k/a Whale Securities Co., Inc.

Member surcharge	= \$ 3,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 5,000.00

GKN Securities Corp.

Member surcharge	= \$ 3,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 5,000.00

Adjournment Fees

Adjournments requested during these proceedings:

Dec. 11, 12 & 13, 2001, adjournment by Bluestone	= \$ 1,200.00
Dec. 18 & 19, 2001, adjournment by all parties	= 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 \$1,200.00 = \$ 4,800.00

Pre-hearing conferences:	June 4, 2001	1 session
	July 17, 2001	1 session
	October 5, 2001	1 session
	November 9, 2001	1 session

Six (6) Hearing sessions x \$1,200.00 = \$ 7,200.00

Hearing Dates:	February 4, 2002	2 sessions
	February 5, 2002	2 sessions
	February 6, 2002	2 sessions

Total Forum Fees = \$12,000.00

The Panel has assessed all of the forum fees against Bluestone.

Fee Summary

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

<u>Initial Filing Fee</u>	= \$ 600.00
<u>Total Fees</u>	= \$ 600.00
<u>Less payments</u>	= \$ 1,800.00
Refund Due Claimants	= \$ 1,200.00

As stated in the "Award" section above, Bluestone is liable and shall reimburse Claimants for the \$600.00 filing fee.

2. Bluestone be and hereby is solely liable for:

Member Fees	= \$ 8,600.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$12,000.00
Total Fees	= \$21,800.00
<u>Less payments</u>	<u>= \$ 3,600.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$18,200.00

3. GKN be and hereby is solely liable for:

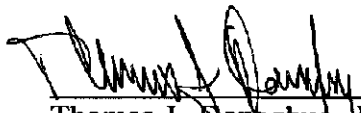
<u>Member Fees</u>	<u>= \$ 8,600.00</u>
Total Fees	= \$ 8,600.00
<u>Less payments</u>	<u>= \$ 8,600.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

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

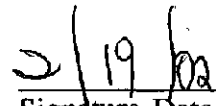
ARBITRATION PANEL

Thomas J. Donoghue, J.D.	-	Public Arbitrator, Presiding Chair
William M. Prifti, Esq.	-	Public Arbitrator
Dennis M. Cronin, Jr., Esq.	-	Industry Arbitrator

Concurring Arbitrators' Signatures



Thomas J. Donoghue, J.D.
Public Arbitrator, Presiding Chair



Signature Date

William M. Prifti, Esq.
Public Arbitrator

Signature Date

Dennis M. Cronin, Jr., Esq.
Industry Arbitrator

Signature Date

February 25, 2002
Date of Service (For NASD office use only)

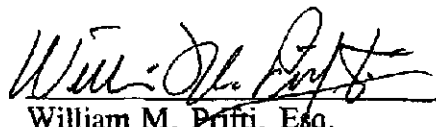
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William M. Prifti, Esq.	-	Public Arbitrator
Dennis M. Cronin, Jr., Esq.	-	Industry Arbitrator


Concurring Arbitrators' Signatures

Thomas J. Donoghue, J.D.
Public Arbitrator, Presiding Chair

Signature Date



William M. Prifti, Esq.
Public Arbitrator



February 15, 2002
Signature Date

Dennis M. Cronin, Jr., Esq.
Industry Arbitrator

Signature Date

February 25, 2002
Date of Service (For NASD office use only)

ARBITRATION PANEL

Thomas J. Donoghue, J.D.	-	Public Arbitrator, Presiding Chair
William M. Prifti, Esq.	-	Public Arbitrator
Dennis M. Cronin, Jr., Esq.	-	Industry Arbitrator

Concurring Arbitrators' Signatures

Thomas J. Donoghue, J.D.
Public Arbitrator, Presiding Chair

Signature Date

William M. Prifti, Esq.
Public Arbitrator

Signature Date

Dennis M. Cronin Jr.
Dennis M. Cronin, Jr., Esq.
Industry Arbitrator

FEAR MAY 16, 2002
Signature Date

February 25, 2002
Date of Service (For NASD office use only)