

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Peter Marron (Claimant) v. GKN Securities Corp., Investec Ernst & Company, John Marron, Frank Zappone, and Robert Gladstone (Respondents)

Case Number: 03-04546

Hearing Site: New York, New York

Nature of the Dispute: Customer vs. Members and Associated Persons.

REPRESENTATION OF PARTIES

Claimant Peter Marron ("P. Marron") hereinafter referred to as "Claimant": John P. Cione, Esq., Solana Beach, CA.

Respondents GKN Securities Corp. ("GKN"), and Robert Gladstone ("Gladstone"): Leonard Weintraub, Esq., previously Meredith Rosen Cavallaro, Paduano & Weintraub, LLP, New York, NY.

Respondent Frank Zappone ("Zappone"): Edward L. Rose, Esq., Law Offices of Edward L. Rose, New York, NY. Previously represented by: Leonard Weintraub, Esq., previously Meredith Rosen Cavallaro, Paduano & Weintraub, LLP, New York, NY.

Respondent Investec Ernst & Company ("Investec"): Joseph DaProcida, Esq., Investec (US) Incorporated, New York, NY. Previously represented by: William D. Briendel, Esq., Greenberg Traurig, LLP, New York, NY.

Respondent John Marron ("J. Marron") did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: June 17, 2003.

Claimant's Opposition to Respondents Zappone's and Gladstone's Motion to Dismiss filed on or about: December 18, 2003.

Claimant's Opposition to Respondent Investec's Motion to Dismiss filed on or about: December 23, 2003.

Claimant signed the Uniform Submission Agreement: June 10, 2003.

Joint Statement of Answer filed by Respondents GKN, Gladstone, and Zappone on or about: October 21, 2003.

Motion to Dismiss filed by Respondents Gladstone and Zappone on or about: October 21, 2003.
Respondent GKN did not sign the Uniform Submission Agreement.
Respondent Gladstone did not sign the Uniform Submission Agreement.
Respondent Zappone did not sign the Uniform Submission Agreement.

Motion to Dismiss and Statement of Answer filed by Respondent Investec on or about: October 17, 2003.
Respondent Investec signed the Uniform Submission Agreement: February 23, 2004.

Respondent J. Marron did not file a Statement of Answer or sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: negligence; forgery; inter-positioning; misrepresentations; fraud; unauthorized trading; principal trading violations; suitability; failure to supervise; breach of fiduciary duty; and violation of state and federal securities laws and NASD Rules of Fair Practice. The causes of action relate to unspecified securities.

Unless specifically admitted in their Answer, Respondents GKN, Gladstone, and Zappone denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in its Answer, Respondent Investec denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$500,000.00; disgorgement of commissions; interest at the legal rate of 10%; punitive damages; expert witness fees; forum and filing fees; reasonable attorneys' fees; and costs.

Respondents GKN, Gladstone, and Zappone requested that the Panel dismiss the Statement of Claim in its entirety; reasonable costs, including attorneys' fees; an order that any reference to this matter be deleted and expunged from the records that attend Respondents Gladstone's and Zappone's securities licenses and that the NASD and Central Registration Depository take all such action to effect such deletion and expungement; and such other and further relief as the Panel deems just and proper.

Respondent Investec requested that the Panel dismiss the Statement of Claim in its entirety; costs; and such other relief that the Panel deems fair and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent J. Marron has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter

would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondents GKN and Gladstone did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and, having answered the claim, and appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

Respondent Zappone did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim is bound by the determination of the Panel on all issues submitted.

By letter dated November 16, 2004, Claimant notified NASD Dispute Resolution that he settled this matter with Respondent Zappone.

At the hearing in this matter, Claimant filed a Motion to Compel and a Motion to Amend. The Panel granted the Motion to Compel and denied the Motion to Amend.

At the hearing in this matter, Respondent GKN filed a Motion to Dismiss and a Motion to Compel. The Panel denied the Motion to Dismiss and granted the Motion to Compel.

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, and 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. Respondents GKN, J. Marron and Gladstone are liable for and shall pay to Claimant compensatory damages in the amount of \$100,000.00 plus interest at the rate of 9% accruing from May 31, 2005 until paid.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:
Initial claim filing fee = \$300.00

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. Accordingly, GKN Securities Corp. and Investec Ernst & Company are parties.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Two (2) Pre-hearing sessions with Panel @ \$1,125.00 = \$ 2,250.00

Pre-hearing conferences:	February 3, 2004	1 session
	November 4, 2004	1 session

Nine (9) Hearing sessions @ \$1,125.00 = \$10,125.00

Hearing Dates:	November 8, 2004	1 session
	April 18, 2005	2 sessions
	April 19, 2005	2 sessions
	April 20, 2005	2 sessions
	April 21, 2005	2 sessions

Total Forum Fees = \$12,375.00

1. The Panel has assessed \$3,093.75 of the forum fees against Claimant.
2. The Panel has assessed \$3,093.75 of the forum fees against Respondent GKN.
3. The Panel has assessed \$3,093.75 of the forum fees against Respondent Gladstone.
4. The Panel has assessed \$3,093.75 of the forum fees against Respondent Marron.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$3,093.75
Total Fees	= \$3,393.75
Less payments	= \$1,575.00
Balance Due NASD Dispute Resolution	= \$1,818.75

2. Respondent GKN is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$3,093.75
Total Fees	= \$8,293.75
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$8,293.75

3. Respondent Investec is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondent Gladstone is solely liable for:

<u>Forum Fees</u>	= \$3,093.75
<u>Total Fees</u>	= \$3,093.75
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,093.75

5. Respondent Marron is solely liable for:

<u>Forum Fees</u>	= \$3,093.75
<u>Total Fees</u>	= \$3,093.75
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,093.75

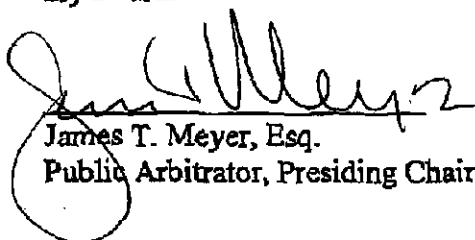
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

James T. Meyer, Esq.	-	Public Arbitrator, Presiding Chairperson
Raymond Robert Wiehe	-	Public Arbitrator
Eugene D. Brody	-	Non-Public 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.


James T. Meyer, Esq.
Public Arbitrator, Presiding Chairperson

6/1/05
Signature Date

Raymond Robert Wiehe
Public Arbitrator

Signature Date

Eugene D. Brody
Non-Public Arbitrator

Signature Date

June 7, 2005
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL


James T. Meyer, Esq.	-	Public Arbitrator, Presiding Chairperson
Raymond Robert Wiehe	-	Public Arbitrator
Eugene D. Brody	-	Non-Public Arbitrator

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James T. Meyer, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Raymond Robert Wiehe
Public Arbitrator

6-9-05

Signature Date

Eugene D. Brody
Non-Public Arbitrator

Signature Date

June 7, 2005

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

James T. Meyer, Esq.	-	Public Arbitrator, Presiding Chairperson
Raymond Robert Wiehe	-	Public Arbitrator
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James T. Meyer, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Raymond Robert Wiehe
Public Arbitrator

Signature Date



Eugene D. Brody
Non-Public Arbitrator

6-5-05

Signature Date

June 7, 2005

Date of Service (For NASD Dispute Resolution use only)