

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Gloria DiRusso & Anthony DiRusso (deceased)

93-03014

Name of Respondents

GKN Securities Corp.
Robert D. Tucker

REPRESENTATION

For Claimants, Gloria and Anthony DiRusso, Sr., Alan Shaver from the law firm of Neville Shaver Kelly & McLean located in Stamford, CT.

For Respondents, GKN Securities Corp., ("GKN"), David Smith from the law firm of Smith, Campbell & Paduano located in New York, New York.

For Respondents, Robert Tucker, ("Tucker"), David Robbins from the law firm of Kaufman Feiner Yamin Gildin & Robbins located in New York, New York.

CASE INFORMATION

Statement of Claim filed on August 3, 1993.

Claimant's Submission Agreement signed on July 22, 1993.

Statement of Answer filed by Respondent, GKN on November 18, 1993.
Respondent, GKN did not file a Submission Agreement.

Statement of Answer was filed by Respondent, Tucker on November 4, 1993.
Respondent, Tucker's Submission Agreement was signed on November 1, 1993.

HEARING INFORMATION

Hearing Dates/Sessions:	December 19	-	2 Sessions
	December 20	-	2 Sessions

Hearing Location: NASD Offices, 33 Whitehall Street, New York, New York 1004.

CASE SUMMARY

Claimants allege Respondents recommended inappropriate and unsuitable securities (an allegation withdrawn at the hearing) and failed to execute sell orders on a timely basis. In 1992, Mr. DiRusso purchased shares of Restor Industries and EuroDisney through Respondent Tucker, a registered representative at Respondent GKN, at his recommendation. Claimants alleged when the stock values decreased, Mr. DiRusso ordered Tucker to sell, but no sale was effected. Mrs. DiRusso stated that after the death of her husband, her son met with the Compliance Officer at GKN to discuss his father's account and his alleged complaints about how poorly it was handled, but no action was ever taken.

Respondents GKN defended by stating that it did not underwrite the EuroDisney stock but that in any event, it was sold at Claimant's request. Additionally, GKN maintains that Claimants specifically declined the opportunity to sell Restor. Despite Claimants allegations that Tucker refused to sell certain stocks, GKN holds that during a seven month period following Mr. DiRusso's hospitalization, it was never informed of any unhappiness with the servicing of the account.

Additionally, GKN argues it cannot be held liable for Tucker's actions if he acted outside the scope of his employment, which would be the case if found liable with respect to the claim.

Respondent Tucker defends by stating that at no time did he ever refuse to sell any securities as instructed by Claimants, nor did GKN ever order him not to sell orders. Tucker states that all stock transactions were discussed thoroughly and on an ongoing basis with Mr. DiRusso who did not choose to sell his stock and only after Tucker contacted DiRusso about the falling price of EuroDisney did he sell those shares.

NASD Case No. 93-03014

RELIEF REQUESTED

Claimants requested \$36,309.50 plus interest in damages, costs and fees.

Respondents requested the claim be dismissed in its entirety, costs and attorneys' fees.

AWARD

1. The claim is dismissed in its entirety.
2. All costs and fees are to be divided equally among the three parties: one-third by Claimant, one-third by Respondent GKN and one-third by Respondent Tucker.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

1.	Non-refundable Filing Fee:	\$ 120.00
2.	Hearing Session Deposit (4 sessions x \$400.00):	\$1600.00
3.	Postponement Fee:	\$ <u>750.00</u>
	Total Fees:	\$ <u>2470.00</u>

1. Claimants paid \$1270.00 and are owed a refund of \$446.67.
2. Respondent GKN paid \$0 and owes \$823.33. GKN is directed to pay \$446.67 directly to Claimants and \$376.66 to the NASD.
3. Respondent Tucker paid \$0 and owes \$823.33.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

Name

Public/Industry

Joseph E. DaGrosa
Joseph E. DaGrosa

Industry

NASD Date of Decision: February 6, 1995

STATE OF: New York
COUNTY OF: New York

S.S.:

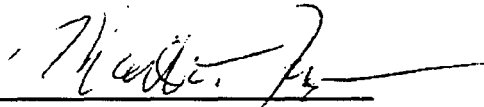
On this 25 day of January, 1995 before me personally appeared Joseph E. DaGrosa known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Helene Boerum

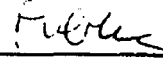
Notary Public for the State of New York
Qualified in the County of New York
Term Expires Dec. 31, 1995

Concurring Arbitrators' Signatures
Name

Public/Industry



Martin Fogelman, Esq.



NASD Date of Decision: February 6, 1995

STATE OF: New York
COUNTY OF: New York

S.S.:

On this 2 day of February, 1994, before me personally appeared Martin Fogelman, Esq. known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

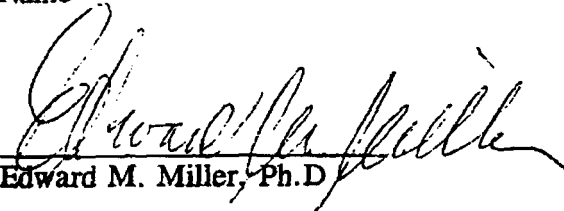
Donna Welesky

DONNA WELENSKY
Notary Public, State of New York
No. 01WE4608744
Qualified in New York County
Commission Expires September 30, 1995

Concurring Arbitrators' Signatures

Name

Public/Industry

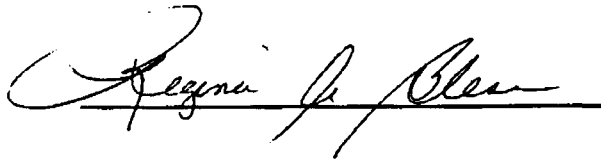

Edward M. Miller, Ph.D

NASD Date of Decision: February 6, 1995

STATE OF: ~~New York~~ New Jersey
COUNTY OF: ~~New York~~ Monmouth

S.S.:

On this 25 day of Jan, ¹⁹⁹⁵ ~~1994~~, before me personally appeared Edward M. Miller, Ph.D known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

A handwritten signature in cursive script, appearing to read "Regina A. Bless", is written over a horizontal line.

REGINA A. BLESS
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Sept. 10, 1997