

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

GKN Securities Corp.

94-01837

Name of Respondent

Randall Cohen

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 17, 1994, Claimant GKN Securities Corp., through its in-house counsel, Katherine Nathan, Esq., alleged that Respondent Randall Cohen commenced employment with the Claimant on or about October 12, 1993 and signed an Increased Payout Agreement on December 13, 1993 pursuant to which he received \$2,968.00 between October 22, 1993 and January 14, 1994. Claimant further alleged that during this period Respondent's earnings after deduction for certain expenses resulted in a deficit of \$2,973.61, which Respondent has failed to repay since his employment with Claimant terminated on or about March 1994. As a result of the above, Claimant contended that it has suffered damages for which the Respondent should be held liable.

Respondent Randall Cohen, who appeared Pro Se, maintained that he sued Claimant for violating the Fair Labor Standards Act and accepted a \$700.00 settlement with the understanding that Claimant agreed not to file a claim with the NASD. Respondent further maintained that in regard to Claimant's claim for \$2,973.61, according to the Fair Labor Standards Act, Claimant would have to pay \$700.00 per month for three months which would amount to \$2,100.00. Respondent contended that when he signed the employment contract with Claimant, he was told that the company would deduct some money every month to pay off any deficit and that since Claimant terminated the employment it is difficult for him to deduct money from his commissions. Respondent further contended that Claimant never signed the Association Agreement which is Exhibit B in their claim and therefore this claim shouldn't be arbitrated.

In a counterclaim, Respondent alleged that he was terminated while in the process of working on a large account which would have earned him a \$10,000.00 commission and the Claimant should be liable for this amount less the \$873.61 which was paid to him.

RELIEF REQUESTED

Claimant GKN Securities Corp. requested \$2,973.61 in actual damages plus interest, costs and attorney's fees.

Respondent Randall Cohen requested that the claims of the Claimant be dismissed and that he be awarded \$9,126.39 in actual damages.

AWARD

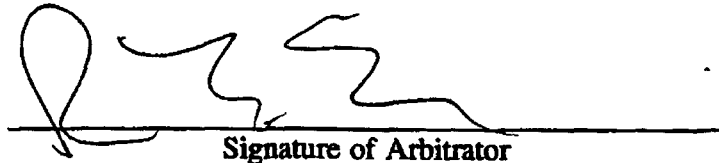
Pursuant to Section 10 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Industry Arbitrator, Romaine L. Gardner, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 11, 1994 and by the Respondent on August 22, 1994.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Randall Cohen is liable and shall pay to the Claimant GKN Securities Corp. \$2,973.61 in actual damages.
2. The counterclaim of Respondent Randall Cohen against Claimant GKN Securities Corp. is dismissed in its entirety.
3. The parties shall bear their respective costs.
4. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent Randall Cohen shall pay \$575.00 to the NASD, Inc. as payment of the Counterclaim fee.

AFFIRMATION

I, **ROMAINE L. GARDNER, ESQ.**, do hereby affirm upon my oath of arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.


Signature of Arbitrator

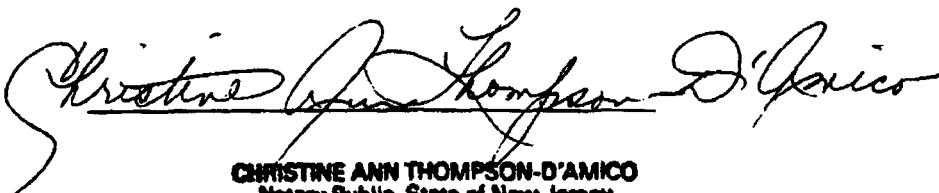
DATE OF DECISION: March 28, 1995

STATE OF: *New Jersey*

SS:

COUNTY OF: *Hudson*

On this 2nd day of March, 1995, before me personally appeared **ROMAINE L. GARDNER, ESQ.**, to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



CHRISTINE ANN THOMPSON-D'AMICO
Notary Public, State of New Jersey
No. 2166603
Qualified in Hudson County
Commission Expires June 7, 1999