

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

GKN Securities Corp.

94-01891

Name of Respondent(s)

Kevin Spinelli

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on May 19, 1994 Claimant GKN Securities Corp. ("Claimant"), through its representative and in-house counsel, Katherine Nathan, Esq., alleged that Respondent Kevin Spinelli ("Respondent") on or about May 1, 1991 commenced employment as a registered representative at GKN. Claimant further alleged that and on or about March 19, 1993, Spinelli entered into an Association Agreement ("AA") in which he agreed that he and GKN would arbitrate any disputes, he would repay GKN for certain expenses, and he would indemnify GKN for unsecured customer debits. Claimant contended that Respondent's expenses and customer debits, which are covered by the AA, resulted in a debit of \$3,874.50. Claimant further contended that in October, November, and December of 1992, Claimant signed three promissory notes totalling \$9,000.00 but failed to repay \$1,826.29 of the total. Claimant alleged that Respondent's employment terminated on in March of 1993 and despite its demand for the \$5,700.79, Respondent has failed to repay, and that as a result of the above, Respondent should be held liable.

Respondent Kevin Spinelli failed to file a Statement of Answer to the Statement of Claim.

**RELIEF REQUESTED**

Claimant GKN Securities Corp., requested \$5,700.79 in actual damages.

Respondent failed to file a Statement of Answer to the Statement of Claim.

**OTHER ISSUES CONSIDERED AND DECIDED**

In accordance with Section 10 of the NASD Code of Arbitration Procedure, the Respondent Kevin Spinelli, was served by regular mail and given an opportunity to respond, which he failed to do. In addition, an overdue answer notice and notice of the identity of the Arbitrator were sent by certified mail and were received as evidenced by the return signature card on file at the NASD.

Pursuant to the By-laws of the NASD, the Arbitrator determined that Respondent Kevin Spinelli, had notice of the claim, and was required to submit to this arbitration proceeding; and is, therefore, bound by the Arbitrator's ruling and determination.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, James R. Madan, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant GKN Securities, Corp., on May 11, 1994 and not by the Respondent as is required by Sections 8 and 10 of the NASD code of Arbitration Procedure.

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. The Respondent Kevin Spinelli, is liable and shall pay to the Claimant GKN Securities Corp., \$5,700.79 in actual damages.
2. Respondent Kevin Spinelli, is liable and shall pay to the Claimant GKN Securities Inc., simple interest at the rate of 9% per annum from March 26, 1993 until payment of the award.
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 Kevin Spinelli is liable and shall pay to the Claimant GKN Securites, Inc. \$575.00 as reimbursement of the filing fee.
5. All other relief requests are denied.

**AFFIRMATION**

I, **JAMES R. MADAN**, do hereby affirm, pursuant to Article 7507 of the Civil Procedure Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



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James R. Madan

DATE OF DECISION: February 14, 1996