

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

GKN Securities Corp.

95-04873

Name of Respondent

Mark Balbirer

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on October 16, 1995, Claimant GKN Securities Corp. ("GKN"), through its representative and in-house counsel, Katherine Nathan, Esq., alleged that Respondent Mark Balbirer ("Respondent"), breached his Association Agreement (the "Agreement") with Claimant. GKN further alleged that pursuant to the terms of the Agreement, Respondent agreed to repay GKN for certain expenses and to indemnify GKN for unsecured customer debits. GKN contended that Respondent's expenses and customer debits resulted in a total debit of \$2,657.67, and on August 4, 1994, Respondent signed a promissory note. GKN further contended that Respondent's employment with GKN terminated on November 14, 1994, and the full amount of the promissory note is due and payable. GKN alleged that it has demanded payment, but Respondent has refused to pay it and therefore, should be held liable to GKN for \$4,157.67, plus interest.

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

**RELIEF REQUESTED**

Claimant GKN Securities Corp., requested \$4,157.67 in actual damages, plus interests, costs and attorneys' fees.

Respondent Mark Balbirer failed to file a Statement of Answer.

**OTHER ISSUES CONSIDERED & DECIDED**

In accordance with Section 10 of the NASD, Inc. Code of Arbitration Procedure, the Respondent Mark Balbirer, was served the Statement of Claim by certified mail as evidenced by the returned signature card on file at the NASD, and given an opportunity to respond, which he failed to do.

An overdue answer notice and notice of the Arbitrator's identity were sent by certified mail and was received, as evidenced by the returned signature card on file.

Pursuant to the By-laws of the NASD, Inc. the Arbitrator determined that Respondent Mark Balbirer 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 10 of the NASD, Inc. Code of Arbitration Procedure, a single Industry Arbitrator, Douglas Delanoy, Jr., 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 October 2, 1995, and not by the Respondent Mark Balbirer, as required by Sections 8 & 10 of the NASD, Inc. 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 Mark Balbirer is liable and shall pay to the Claimant GKN Securities Corp. \$4,157.67 in actual damages.
2. All other relief requests are denied.
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 GKN Securities Corp., shall be retained by the NASD, Inc.

**Affirmation**

STATE OF FLORIDA

} SS:

COUNTY OF Duval

I, DOUGLAS DELANEY III, do hereby affirm upon my oath  
as arbitrator that I am the individual described in and who executed this instrument,  
which is my oath and award.

Douglas Delaney, Jr.  
Signature of Arbitrator

DATE OF DECISION: April 29, 1996