

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Steven J. & Carol Francois

96-00033

Name of Respondents

Kevin High  
Anthony Ferrante  
Anthony Rodrigues  
Corporate Securities Group, Inc.

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc., on January 3, 1996, claimants Steven J. and Carol Francois, who appeared Pro Se, alleged that respondents Anthony Ferrante ("Ferrante") and Anthony Rodrigues ("Rodrigues") of the firm Corporate Securities Group, Inc. ("CSG") made unsuitable recommendations and misled claimants about the risks involved with a margin account. Claimants further alleged that on November 16, 1994, respondent Ferrante put claimants into a margin account. Claimants also alleged that Ferrante never explained that a margin account was an extremely risky investment or that they could lose all their money in a margin account. Claimants asserted that on or about January 23, 1995, Mr. Rodrigues called them to explain that Ferrante no longer work at Corporate Securities, and that he would be taken over their account. Claimants further asserted that they explained to Mr. Rodrigues that they were not wealthy and could not take alot of risk. Claimants also asserted that they gave Mr. Rodrigues authority to buy and sell stocks that he thought was appropriate and that he did not have to call them every time. Claimants contended that on April 12, 1995, Mr. Rodrigues called them to buy Capital Gaming, but claimants explained to him that they did not have any cash. Claimants further contended that Rodrigues said he would put them on margin, but never explained the risk involved with a margin account. Claimants also contended that June 5, 1995, Mr. Rodrigues called to notify them that there was a margin call. Claimants alleged that they told Mr. Rodrigues that they did not understand what a margin call was. Claimants further alleged that Mr. Rodrigues told them that they would have to send \$2,500.00. Claimants also alleged that they were extremely upset and told Mr. Rodrigues that they did not have that the money, and he responded by telling them not to worry and "hang in there". Claimants contended that respondent Kevin High, the Branch Manager contacted them in an attempt to resolve the matter, but that it was unsuccessful

Claimants also contended that on or about September 5, 1995, the called Corporate Securities Main office in Boca Ration, Florida and spoke with Merrill Dixon in their compliance office. Claimants alleged when they told Mr. Dixon about Mr. High's offer, he replied that it was impossible because all offers of

resolution and general releases went through his office and that he never spoke with Mr. High. Claimants further alleged that the next time they heard from Corporate Securities was on or about September 28, 1995, in which they offered them 1,200 shares of Capital Gaming in order to resolve their complaint. Claimants asserted that they suffered damages due to the wrongdoing of the respondents, and therefore they should be held liable.

Respondents Kevin High ("High"), Anthony Ferrante ("Ferrante"), Anthony Rodrigues ("Rodrigues"), and Corporate Securities Group, Inc. ("CSG"), through their representative and counsel Gregory Tendrich, Esq., maintained that claimants were fully advised of the risks and rewards of trading on margin. Respondents further maintained that claimant's investments were suitable given their previous investment experience, financial status and their stated investment objectives. Respondents also maintained that on or about October 17, 1994, claimants opened an account with respondent Ferrante. Respondents contended that at this time the claimants advised Ferrante they had an estimated income of \$60,000.00, a liquid net worth of \$40,000.00, and estimated net worth of \$250,000.00. Respondents further contended that claimants investment objectives were growth. Respondents also contended that claimants received a copy of their New Account Card advising them to review their card for inaccuracies and to report those inaccuracies to the firm's compliance department. Respondents maintained that in the Customer Agreement signed by claimants, action taken by the respondents in the claimants account were fair, reasonable and fully disclosed.

Respondents further maintained that claimants' primary contention and request for relief stems from their purchases of Capital Gaming. Respondents also maintained that claimants received confirmation reflecting each purchase and, in fact, their first purchase of 1,000 shares was purchased on margin. Respondents contended the Capital Gaming was a Rhode Island casino venture that fell through when the State of Rhode Island did not approve casino gambling. Respondent further contended that claimants liked the stocks potential so much, they purchased and additional 200 shares. Respondents also contended that as a result of the states decision the stock dropped significantly, which lead to the margin call. Respondents maintained that shortly after this event, claimants complained about their account being liquidated. Respondents further maintained that claimant Steven Francois demanded that his account be credited with 1,200 shares of Capital Gaming. Respondents also maintained the respondent High agreed to this offer, and that respondents made a good faith attempt to appease the claimants.

#### **RELIEF REQUESTED**

Claimants Steven J. and Carol Francois, requested \$6,903.81 in actual damages, representing their original investment in Capital Gaming.

Respondents Kevin High, Anthony Rodrigues, Anthony Ferrante and Corporate Securities Group, Inc., requested that the claim of the claimants be dismissed in its entirety.

#### **AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator David N. Brainin, Esq. was selected to review the matter in controversy between the parties set forth in submission to Arbitration signed by the claimants Steven J. and Carol Francois, on December 22, 1995 and by respondents Kevin High and Anthony Rodrigues, on May 30, 1996, and by Anthony Ferrante,


on June 3, 1996, and by Corporate Securities Group, Inc. on May 7, 1996, as required by Section 12 and 13 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 follow:

1. The respondents Kevin High, Anthony Ferrante, Anthony Rodrigues and Corporate Securities Group, Inc., are jointly and severally liable and shall pay to the claimants Steven J. and Carol Francois, \$6,903.81 in actual damages.
2. The respondents Kevin High, Anthony Ferrante, Anthony Rodrigues and Corporate Securities Group, Inc., are jointly and severally liable and shall pay to the claimants Steven J. and Carol Francois, simple interest at the rate of 9% per annum from July, 1996 to the date of payment.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the claimants Steven J. and Carol Francois, shall be retained by the NASD, Inc. Respondents Kevin High, Anthony Ferrante, Anthony Rodrigues and Corporate Securities Group, Inc., are jointly and severally liable and shall pay to claimants Steven J. and Carol Francois, \$75.00 as reimbursement of one-half of the filing fee.

**AFFIRMATION**

I, **David N. Brainin, Esq.**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual herein and who executed this instrument, which is my oath and award.

  
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David N. Brainin, Esq.

Date of Decision: July 19, 1996