

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimant

GKN Securities Corp.

96-00077

Name of Respondent

Richard Martin

---

**REPRESENTATION**

For Claimant GKN Securities Corporation appeared Katherine Nathan, Esq. in-house counsel, located in New York, New York.

Respondent Richard Martin appeared pro se.

**CASE INFORMATION**

The Statement of Claim was filed on January 5, 1996. Claimant's Submission Agreement was signed on December 8, 1995.

A Statement of Answer was filed by Respondent Richard Martin on March 8, 1996. Respondent Martin's Submission Agreement was signed on March 8, 1996.

**HEARING INFORMATION**

Hearing Date/Session:

August 22, 1996

1 Session

The Hearing was held at the NASD offices located in New York, New York.

**CASE SUMMARY**

Claimant alleged that on or about June 30, 1993 Respondent Richard Martin ("Martin") began employment with claimant and that on or about September 16, 1993 Martin signed an Association Agreement with claimant in which respondent agreed to pay claimant for certain expenses and to indemnify claimant for unsecured customer debits. Claimant further alleged that respondent signed an Increased Payout Agreement which obligated respondent to repay claimant the excess between the payout received by respondent and the standard payout grid in effect at that time should respondent terminate employment with claimant prior to June 1995.

Claimant contended that respondent signed six promissory notes totalling \$10,981 which became immediately due and payable should respondent's employment with claimant terminate. Claimant stated that respondent's employment terminated on or about April 3, 1995 and that despite demand by claimant, respondent has failed to repay the amount owed.

Respondent maintained that on or about April 3, 1995, Robert Gladstone, Sales Manager, Principal and duly authorized representative of claimant forgave all his obligations upon his voluntary termination of employment. Respondent contended that at the time the promissory notes, totalling \$9,481, were executed a verbal contract and agreement was made between Mr. Gladstone and himself wherein the notes were to be a form of forgivable salary in the amount of \$10,000 to be repaid over four months. Respondent stated that this transaction was facilitated by Mr. Joel Soren, Director of Training.

Respondent alleged that he visited claimant's place of business subsequent to his termination and that there was no mention of this proceeding and that prior to the service of claim there was no demand for repayment.

#### **RELIEF REQUESTED**

Claimant requested the sum of \$13,060.63 plus interest, costs, attorney's fees and any and all additional relief the arbitrators deem just and proper.

Respondent requested dismissal of this claim, reimbursement of costs and fees and any additional relief as the arbitrators deem just and proper.

#### **OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD. >

1. Pursuant to Section 1 of the Code of Arbitration Procedure (the "Code"), the panel found subject matter over this entire controversy.
2. The panel found that Richard Martin was an associated person of a member of the NASD at the time this controversy arose and therefore, the panel found personal jurisdiction over Richard Martin pursuant to section 12 of the Code.
3. In accordance with Sections 21, 26 and 29 of the Code, the panel found that the NASD provided Richard Martin with due notice of the hearing conducted in this matter by regular and certified mail. The panel determined to proceed with the hearing without Respondent Martin, whose absence was unexcused.

**AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Richard Martin be and hereby is liable and shall pay to Claimant GKN Securities Corporation the sum of \$13,060.63 in actual damages with interest at the legal rate of the State of New York from the date of the loan until payment of this award.
2. Claimant's request for attorney's fees is hereby denied.
3. All other claims are hereby denied.

**FORUM FEES**

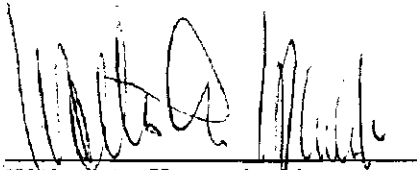
Pursuant to Section 44c of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain the \$ 500.00 non-refundable filing fee submitted by claimant and have assessed the following forum fee:

1 Hearing session	\$600.00
less Claimant's hearing session deposit	\$600.00
Total outstanding	\$ 0.00

The arbitrators have determined that Respondent Richard Martin shall bear the cost of this arbitration.

Respondent Richard Martin is liable and shall pay to Claimant the sum of \$600.00 which represents the hearing session deposit previously paid by Claimant and the total forum fee for this arbitration.

**ARBITRATORS' SIGNATURES**



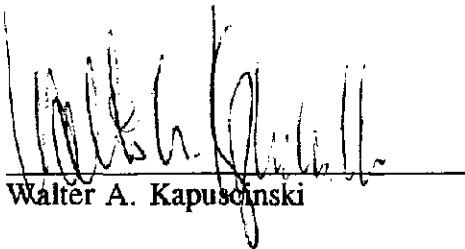
Walter A. Kapuscinski  
Industry Chairman

\_\_\_\_\_  
John B. Ryan  
Industry Panelist

\_\_\_\_\_  
John A. Chepak  
Industry Panelist

Date of Decision: September 23, 1996

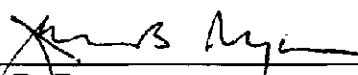
I, Walter A. Kapuscinski, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.



Walter A. Kapuscinski

**ARBITRATORS' SIGNATURES**

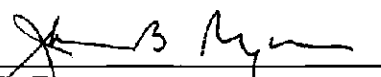
\_\_\_\_\_  
Walter A. Kapuscinski  
Industry Chairman

  
\_\_\_\_\_  
John B. Ryan  
Industry Panelist

\_\_\_\_\_  
John A. Chepak  
Industry Panelist

Date of Decision: September 23, 1996

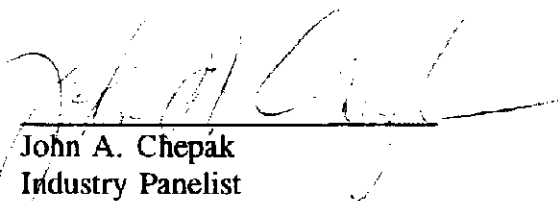
I, John B. Ryan, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

  
\_\_\_\_\_  
John B. Ryan

**ARBITRATORS' SIGNATURES**

\_\_\_\_\_  
Walter A. Kapuscinski  
Industry Chairman

\_\_\_\_\_  
John B. Ryan  
Industry Panelist

  
\_\_\_\_\_  
John A. Chepak  
Industry Panelist

Date of Decision: September 23, 1996

I, John A. Chepak, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

  
\_\_\_\_\_  
John A. Chepak  
RECIPIENTS:

Walter A. Kapuscinski