

## AWARD

### NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant

Michael Francis

v.

Arbitration No.

96-01446

Name of Respondents

George Klepacki; Barron Chase Securities, Inc.; Hanifen Imhoff Clearing Corporation

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### REPRESENTATION

For Claimant:

T. Randolph Catanese, Esq.  
Catanese & Wells  
Westlake, California

For Respondent

Eugene Michael Kennedy, Esq.  
Law Office of Eugene Michael Kennedy, P.A.  
Fort Lauderdale, Florida

### CASE INFORMATION

Statement of Claim filed:

March 8, 1997

Claimant's Submission Agreement signed: February 13, 1996

Statement of Answer filed by  
Respondent George Klepacki:

June 24, 1996

Statement of Answer filed by  
Respondent Barron Chase Securities, Inc.:

July 3, 1996

Statement of Answer filed by  
Respondent Hanifen Imhoff Clearing  
Corporation:

July 1, 1996

Respondent George Klepacki's  
Submission Agreement signed:

November 5, 1997

Respondent Barron Chase  
Securities, Inc.'s Submission  
Agreement signed:

November 6, 1997

### **HEARING INFORMATION**

Pre Hearing Conference Dates / Sessions:

December 20, 1996 (1 session)  
January 15, 1997 (1 session)

Hearing Dates / Sessions:

November 6, 1997 (2 sessions)  
November 7, 1997 (2 sessions)

Hearing Location:

Los Angeles, California

### **CASE SUMMARY**

Claimant claimed that Respondents: (1) breached their fiduciary duty; (2) made material misrepresentations and omissions; (3) were negligent; (4) made unsolicited and unauthorized trades; (5) failed to monitor and supervise the actions of its registered representative; and (6) breached the covenant of good faith and fair dealing.

Respondent denied the allegations of wrongdoing in the Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$48,410.91, prejudgment interest at 10% per annum, incidental and consequential damages, punitive damages, costs and attorney's fees.

Respondents sought dismissal of Claimant's Statement of Claim.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The parties have agreed that the Award in this matter may be executed in either 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 original remains on file with the NASD Regulation, Inc., Office of Dispute Resolution.

Respondent Hanifen Imhoff Clearing Corporation settled with Claimant prior to the arbitration occurring.

### 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) Respondents George Klepacki and Barron Chase Securities, Inc., jointly and severally, are liable to and shall pay Claimant the sum of \$33,530.00 in compensatory damages plus ten percent interest commencing from November 10, 1995 until the award is paid in full.
- 2) Punitive damages are denied.
- 3) Expert costs, including expert fees are denied.
- 4) Attorney fees are denied.

### FORUM FEES

Pursuant to Rule 10332 (c) of the Code of Arbitration Procedure, the following forum fees are assessed against Respondent Barron Chase Securities, Inc.:

One (1) Single Panel Member Pre-Hearing Conference @ \$300.00/Session	= \$ 300.00
One (1) Full Panel Pre-Hearing Conference @ \$400.00/Session	= \$ 400.00
Four (4) Full Panel Hearing Sessions @ \$400.00/Session	= \$1,600.00
Total Forum Fees Assessed Against Against Respondent Barron Chase Securities, Inc.:	= \$2,300.00
Respondent Barron Chase Securities, Inc.'s Balance Due	= \$2,300.00

Claimant's Hearing Session Deposit of \$500.00 shall be refunded by NASD Regulation, Inc.

Fees are payable to NASD Regulation, Inc.

**ARBITRATORS**

<u>Name</u>	<u>Public / Industry</u>
Mary L. Williams, Esq.	Public Arbitrator
Thomas Edward Wall, Esq.	Public Arbitrator
George M. Garvey, Esq.	Industry Arbitrator

**Concurring Arbitrators' Signatures**

Mary L. Williams, Esq. 1/7/98  
Mary L. Williams, Esq.

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Thomas Edward Wall, Esq.

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George M. Garvey, Esq.

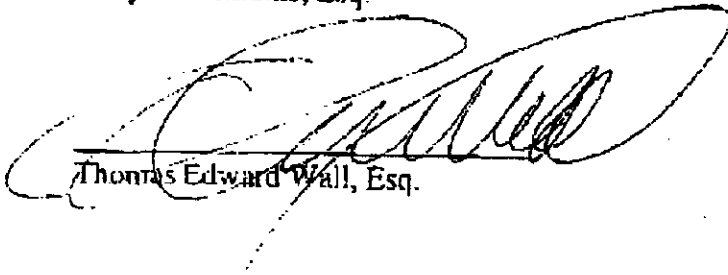
Date of Service: 1/7/98

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George M. Garvey, Esq.	Industry Arbitrator

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Mary L. Williams, Esq.  

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Thomas Edward Wall, Esq.

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George M. Garvey, Esq.Date of Service: 1-6-98

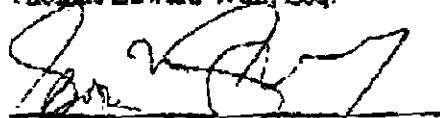
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Date of Service: 1/6/88