

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Kristina M. and Grace M. Cunetta

96-04778

Name of Respondent

GKN Securities Corp.

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on October 28, 1996, claimants Kristina and Grace Cunetta ("claimants"), through their attorney and counsel Bruce Lamchick a sole practitioner located in Miami, Florida, alleged that respondent GKN Securities Corporation ("GKN") altered her application without her approval. Claimants further alleged that on or about January 23, 1996, Ms. Cunetta opened an account with GKN. Claimants also alleged Ms. Cunetta met Mr. Sarna and advised him that she sought long term capital appreciation and wished to protect her assets. Claimants asserted that Ms. Cunetta was an novice investor. Claimants further asserted that Ms. Cunetta agreed to purchase a few limited investments with the understanding that her money would be safe for long term capital appreciation. Claimants also asserted that Ms. Cunetta circled the investment objective corresponding to long term capital appreciation. Claimants contended that Ms. Cunetta did not circle the category corresponding to a business man's risk and never had any intention of taking this type of risk with her money.

Claimants further contended that at no time did Ms. Cunetta give authorization to GKN to make trades without her specific direction of approval. Claimant also contended that nine transactions were completed by GKN in claimants account with Ms. Cunetta's knowledge or approval. Claimants alleged that while they filled out the initial application, Ms. Cunetta indicated that her net worth was \$250,000.00. Claimants further alleged that this figure later changed to show a new worth of \$450,000.00 by someone at GKN. Claimants also alleged that the changed figure is clearly seen on the carbon copy of the form which was later given to Ms. Cunetta. Claimants asserted that GKN sold Diana Corp ("Diana") within one month of the purchase. Claimants further asserted that when they transferred their account out of GKN they learned that Diana was trading over \$100 per share.

Respondent GKN through its representative and Vice President Katherine Nathan maintained that Ms. Cunetta informed Sarna that she had received a commission of \$20,000.00 in a real estate transaction which had been sitting in a bank and wished to invest the proceeds. Respondent further maintained that Ms. Cunetta wanted to invest some of the funds into aggressive growth situations, while investing the remaining funds into mutual funds. Respondent also maintained that Sarna personally delivered to claimants information relating to several small capitalized companies which Sarna believed had growth potential and information on several mutual funds. Respondent contended that from this information and the discussion with Sarna, Ms. Cunetta made several decisions as to the specific investments she wished to make.

Respondent further contended that because Sarna was recently licensed as an account executive, he was closely supervised by a more experienced account executive Robert Steigman ("Steigman") and co-Branch Manager Macio Weiner ("Weiner"). Respondent also contended neither Steigman or Weiner heard any inappropriate conversations between Ms. Cunetta and Sarna and neither received any complaints from claimants. Respondent maintained that in February, presumably pleased with the servicing of her account, Ms. Cunetta informed Sarna and Steigman that she had an additional \$16,000.00 to invest. Respondent further maintained that claimant was given information about the companies and received both confirmations and monthly statements reflecting this activity.

Respondent also maintained that claimant made a profit of \$1,900 on a three week investment when she sold Diana. Respondent contended that although Diana briefly hit a high on May 24th, GKN is not held to the standard that every recommendation must be timed to sell at a record high in the market or be held liable to clients for the difference. Respondent further contended that this claim is nothing more than the disappointment that comes with the wisdom of hindsight when a security increased dramatically after the sale. GKN denied that any of the transactions in the account were unauthorized and the documentary evidence supports this position.

RELIEF REQUESTED

Claimants Kristina and Grace Cunetta requested \$10,000.00 due to losses suffered as a result of the unauthorized transactions.

Respondent GKN requested that the claims of claimant be dismissed in their entirety and that claimant be assessed all forum fees and expenses.

AWARD

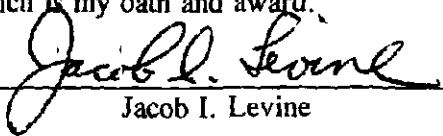
Pursuant to Rule 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, Jacob Levine, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by claimants Kristina and Grace Cunetta on October 16, 1996 and by respondent GKN on November 25, 1996 as required by Rules 10301 and 10302 of the Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the parties, had decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of claimants Kristina and Grace Cunetta against respondent GKN are dismissed in their entirety.
2. All other relief requests are denied.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers Regulation, Inc. by claimants shall be retained by NASD Regulation, Inc.

AFFIRMATION

I, **Jacob Levine**, do hereby affirm upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.



Jacob I. Levine

Date of Decision: March 26, 1997