

Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Richard A. Colan

96-04855

Name of Respondents

GKN Securities Corp.
L. J. Obenauer

REPRESENTATION

Claimant Richard A. Colan ("claimant") appeared pro se.

For Respondent GKN Securities Corp. ("GKN") appeared Katherine Nathan, Esq., GKN Securities Corp., New York, N.Y.

Respondent L.J. Obenauer ("Obenauer") did not appear at the hearing.

CASE INFORMATION

Statement of Claim filed on or about November 13, 1996.

Claimant's Submission Agreement signed on: October 28, 1996.

Statement of Answer filed by Respondent GKN on November 25, 1996.

Respondent GKN's Submission Agreement signed on: January 20, 1997.

Respondent Obenauer did not file a Statement of Answer and did not execute a Submission Agreement as required by Rule 10314 of the Code of Arbitration Procedure.

HEARING INFORMATION

Hearing Date/Sessions: May 28, 1997/One Session

Hearing Location: The hearing was held at the offices of NASD, Inc. in Cleveland, Ohio.

CASE SUMMARY

Claimant alleged that Respondent GKN, through telephone solicitation, convinced him to invest in securities in which it was a market maker. Claimant alleged that GKN represented that it was selling securities carrying very low risk and a high probability of increasing in value. Claimant also alleged that

Respondent Obenauer, a GKN employee, convinced him to sell his securities held in an account at another firm and invest the proceeds in a GKN offering, Chariot Entertainment ("Chariot"). Claimant asserted that Obenauer did not disclose that he was purchasing the offering for claimant on margin. Claimant alleged that, when the price of the securities fell, Obenauer asked claimant for additional funds. Claimant maintained that he provided additional money and alleged that Obenauer again failed to advise him that he was purchasing securities on margin. Claimant asserted that he lost his entire investment but for \$81.75 which GKN returned to him.

GKN denied the allegations made in the Statement of Claim and specifically denied that Obenauer purchased any securities for claimant on margin. GKN also denied that it was a market maker in Chariot and asserted that the security was purchased in a cash account. GKN also asserted that claimant was asked for additional funds because the securities which has been sold in order to purchase Chariot did not cover the full purchase price. GKN maintained that, when claimant failed to provide the necessary funds to cover the purchase, GKN sold the claimant's shares of Chariot pursuant to federal securities requirements.

RELIEF REQUESTED

Claimant requested payment for losses in the amount of \$2137.00 including commissions.

Respondent GKN requested dismissal of the Statement of Claim in its entirety and requested that claimant be assessed all fees and costs relating to the defense of this arbitration.

OTHER ISSUES CONSIDERED & DECIDED

Respondent submitted a Motion to Dismiss the Statement of Claim prior to hearing. The Motion to Dismiss was denied.

Claimant originally filed a Statement of Claim against Respondent GKN and Sovereign Equity Management Corp. Respondent GKN, by letter dated November 18, 1996, moved to sever the claims against GKN from those against Sovereign. The two claims were severed.

The parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim is denied.
2. Respondent GKN's request for costs and expenses relating to the defense of the claim is denied.

FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, the arbitrator has determined that NASD Regulation, Inc. shall retain the \$50.00 non-refundable filing fee and has assessed the following Forum Fees:

1 session X \$100 = \$100 minus hearing session deposit of \$100 = net 0.00 due.

Claimant be and hereby is liable for \$33.34 representing one-third of the forum fees assessed.

Claimant has previously deposited \$100.00 with NASD Regulation, Inc. and therefore owes nothing.

Respondent GKN be and hereby is liable for \$33.33 representing one-third of the forum fees assessed.

Respondent GKN owes claimant \$33.33.

Respondent Obenauer be and hereby is liable for \$33.33 representing one-third of the forum fees assessed. Respondent Obenauer owes claimant \$33.33.

Fees are payable to the NASD Regulation, Inc.

Arbitrator's Signature

Name


Roger W. Van Deusen, Esq.

I, Roger W. Van Deusen, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who have executed this instrument which is my award.


Roger W. Van Deusen, Esq.

Date of decision: June 17, 1997