

NASD REGULATION, INC.  
AWARD

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In the Matter of the Arbitration Between

Name of Claimant

GKN Securities Corporation

97-02799

Name of Respondent

Brian Frey

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**REPRESENTATION**

For Claimant GKN Securities Corp. ("Claimant") appeared Katherine Nathan, Esq., of the firm GKN Securities Corp. located in New York, New York.

Respondent Brian Frey ("Respondent") did not enter an appearance in this matter.

**CASE INFORMATION**

Statement of Claim was filed on: May 19, 1997.

Claimant's Submission Agreement signed on: May 29, 1997.

Respondent did not file a Statement of Answer or an executed Submission Agreement.

**HEARING INFORMATION**

Pre-Hearing Conference: January 8, 1998 Panel

Hearing Date/Sessions: February 17, 1998 One Session

The hearings were conducted at the offices of NASD Regulation, Inc. located in New York, New York.

**CASE SUMMARY**

Claimant stated that Respondent executed a Customer Options Account Form Agreement (the "Agreement"), which provided that he would pay promptly and in full for any security purchased for his account and for any deficiency which might result from the liquidation of any or all securities in the account. Claimant alleged that on February 25, 1997, Respondent authorized

the purchase of 120 Microsoft Corp. call options for \$52,515.00. Claimant further alleged that Respondent did not deposit the necessary funds to pay for the purchase. Claimant contended that, on March 27, 1997, pursuant to the Agreement, it liquidated the positions for Respondent's account. Claimant asserted that a debit balance of \$16,555.96 remained in Respondent's account, and, despite demand for payment, no payment has been made by Respondent.

Respondent did not answer the allegations contained in the Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$16,555.86, together with interest from February 27, 1997, costs and any additional relief as the arbitrators deem just and proper.

Respondent did not file an answer to the Statement of Claim.

### **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 original remains on file with the NASD.

The panel made the following determinations concerning Respondent, who did not file a Statement of Answer and a Submission Agreement and did not appear at the hearing in this matter:

1. Pursuant to Rule 10101 of the Code of Arbitration Procedure (the "Code"), the panel found subject matter jurisdiction over this entire controversy.
2. The panel found that there existed a duly executed and enforceable arbitration agreement between Claimant and Respondent, and, therefore, the panel found personal jurisdiction over Respondent pursuant to Rule 10301 of the Code.
3. The panel found that Respondent was required to file a Statement of Answer and Submission Agreement with NASD Regulation pursuant to Rule 10314(b) of the Code. In this regard, the panel found that the Statement of Claim was properly served upon Respondent pursuant to Rule 10314(a) of the Code.
4. In addition, in accordance with Rules 10310, 10315 and 10318 of the Code, the panel found that NASD Regulation provided Respondent with "due notice" of the hearings conducted in this matter by regular and certified mail. The panel further determined to proceed with the hearing without Respondent whose absence was unexcused.

At the hearing in this matter, two witnesses testified telephonically from Florida.

### **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 be and hereby is liable and shall pay to Claimant compensatory damages in the amount of \$16,555.86, plus interest at the rate of 4% per annum, accruing from February 27, 1997 until the date that the award is satisfied.
2. All other requests for relief are hereby denied.

### **FORUM FEES**

Pursuant to Rule 10332 of the NASD Regulation Code of Arbitration Procedure, the arbitrators have determined that the NASD will retain the \$500.00 non-refundable filing fee and the \$200.00 Member Surcharge deposited by Claimant and have assessed the following Forum Fees:

1 Pre-hearing conference (with panel) x \$600.00	=	\$ 600.00
1 Hearing session x \$600.00	=	\$ 600.00
Total Forum Fees	=	\$1,200.00

Claimant be and hereby is liable and shall pay to NASD Regulation, Inc. the sum of \$1,200.00 representing the total forum fees assessed. Claimant previously deposited \$600.00 with the NASD, and therefore, is liable for the \$600.00 remaining balance.

Fees are payable to NASD Regulation, Inc.

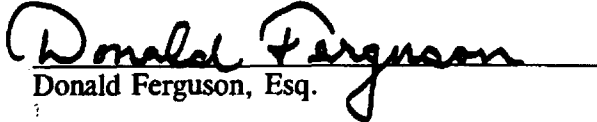
**ARBITRATORS' SIGNATURES**



Donald Ferguson, Esq.  
Chairperson - Public Arbitrator


Date of decision: April 8, 1998

I, Donald Ferguson, Esq., 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.



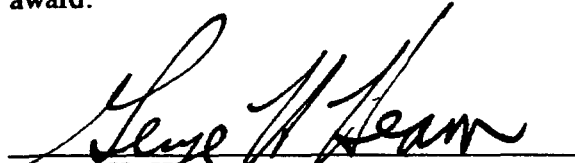
Donald Ferguson, Esq.

**ARBITRATORS' SIGNATURES**

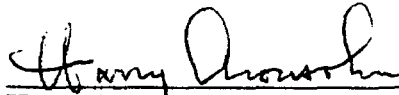
  
George H. Hearn  
Public Arbitrator

Date of decision: April 8, 1998

I, **George H. Hearn**, 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.

  
George H. Hearn

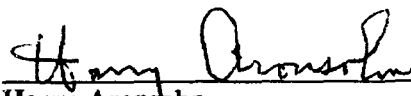
**ARBITRATORS' SIGNATURES**

A handwritten signature in cursive script, appearing to read "Harry Aronsohn", written over a horizontal line.

Harry Aronsohn  
Industry Arbitrator

Date of decision: April 8, 1998

I, Harry Aronsohn, 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.

A handwritten signature in cursive script, appearing to read "Harry Aronsohn", written over a horizontal line.

Harry Aronsohn