

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Josephine A. Kerr, (Claimant) vs. GKN Securities Corporation and Ben Dembin, (Respondent).

Case Number: 97-06056

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimant, Josephine A. Kerr, hereinafter referred to as "Claimant": William S. Shepherd, Esq., William S. Shepherd & Associates, Houston, Texas.

Respondents, GKN Securities Corporation and Ben Dembin, hereinafter collectively referred to as "Respondents": David Clouston, Esq., Arter & Haden, LLP, Dallas, Texas.

CASE INFORMATION

Statement of Claim filed on or about: December 30, 1997

Amended Statement of Claim filed on or about: February 1, 1999

Claimant, Josephine A. Kerr, signed the Uniform Submission Agreement: October 23, 1997

Statement of Answer filed by Respondents GKN Securities Corporation and Ben Dembin, on or about: March 30, 1998

Statement of Answer to the Amended Statement of Claim filed by Respondents GKN Securities Corporation and Ben Dembin filed on or about: February 15, 1999

Respondent, GKN Securities Corporation, signed the Uniform Submission Agreement: February 23, 1998

Respondent, Ben Dembin, signed the Uniform Submission Agreement: March 23, 1998

CASE SUMMARY

Claimant Josephine A. Kerr asserted the following causes of action: Breach of contract and warranties, promissory estoppel; violations of the Texas Deceptive Trade Practices - Consumer Protection Act; violations of the Securities Exchange Act of 1934; violations of the NASD Rules of Fair practice; violations of the Texas Securities Act; violations of the Texas Fraud Statute, Section 27.01 of the Texas Business and Commerce Code. The causes of action related to the execution of trades in her account in volatile and highly speculative stocks with and without her permission.

Unless specifically admitted in its Answer, Respondents GKN Securities Corporation and Ben Dembin denied the allegations made in the Statement of Claim and asserted the following defenses:

the Statement of Claim and Amendment failed to state a claim against Respondents upon which relief may be granted; Claimant waived her right to make instant claims and ratified the activity in her account; Claimants expressly and/or by her conduct ordered, approved, authorized, participated in, and ratified the transactions complained of and upon which recovery was sought, and was accordingly estopped or precluded from recovery; all risks concerning the purchase and sales of securities were fully known to her and she knowingly, willingly and voluntarily assumed the risks of investing in the stock market; all recommendations made by Respondents to Claimant were made in good faith and based upon sound factual advice; all claims were wholly without merit and were frivolous in nature; GKN supervised and had in place a system to monitor and supervise the activities of Dembin; GKN acted in good faith and in accord with industry standards of conduct and in compliance with industry standards and regulations; and the acts complained of in the Amended Statement of Claim do not fall within the Texas Deceptive Trade Practices Act based upon professional opinion/advice exception and, accordingly, Claimant was prohibited from seeking recovery thereunder.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$100,000
Punitive Damages	unspecified amount
Interest	unspecified amount
Attorneys' Fees	unspecified amount
Other Costs	unspecified amount
Other Monetary/Non-Monetary Relief if any:	unspecified amount

Respondent GKN Securities Corporation and Ben Dembin requested:

Compensatory Damages	\$0
Punitive Damages	\$0
Interest	\$0
Attorneys' Fees	\$0
Other Costs	\$9,300
Other Monetary/Non-Monetary Relief if any:	\$0

OTHER ISSUES CONSIDERED AND DECIDED

On or about February 1, 1999, the Panel granted Claimant's Motion for Leave to File an Amended Statement of Claim.

Claimant, Josephine A. Kerr, failed to appear at the hearing on March 3, 1999. Her counsel asked for an adjournment of the hearing. The Panel granted the Motion for Adjournment.

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.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, GKN Securities Corporation, is liable for and shall pay to Claimant, Josephine A. Kerr, \$40,350 in compensatory damages;
2. Respondent, GKN Securities Corporation, is liable for and shall pay to Claimant, Josephine A. Kerr, \$4,800 in interest;
3. Respondent, GKN Securities Corporation, is awarded \$4,450 as an offset for extra fees and expenses incurred as a result of recessing the hearing in March and rescheduling the hearing to June of 1999;
4. All claims of Claimant, Josephine A. Kerr, against Ben Dembin, are denied in their entirety and dismissed with prejudice; and
5. With the exception of forum fees and other costs addressed below, all claims not specifically granted are hereby denied in their entirety and dismissed with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$150
Counter claim/Cross claim/Third Party Claim filing fee	= \$0

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is GKN Securities Corporation.

Member surcharge	= \$1,000
Pre-hearing process fee	= \$0
Hearing process fee	= \$0

Adjournment Fees

Adjournments requested during these proceedings:

March 3, 1999, adjournment by Claimant, Josephine A. Kerr = \$0

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$300 = \$300
 Pre-hearing conference: December 3, 1998 1 session

One (1) Pre-hearing session with Panel x \$500 = \$500
 Pre-hearing conference(s): June 15, 1999 1 session

Seven (7) Hearing sessions x \$500 = \$3,500
 Hearing Dates: March 2, 1999 2 sessions
 March 3, 1999 1 session
 June 23, 1999 2 sessions
 June 24, 1999 2 sessions

Total Forum Fees = \$4,300

1. The Panel has assessed \$500 of the forum fees to Claimant, Josephine A. Kerr.
2. The Panel has assessed \$3,800 of the forum fees to Respondent, GKN Securities Corporation.

Fee Summary

1. Claimant, Josephine A. Kerr, be and hereby is solely liable for:

Initial Filing Fee	= \$150
Member Fees	= \$0
Adjournment Fee	= \$0
Forum Fees	= \$500
<u>Administrative Costs</u>	<u>= \$0</u>
Total Fees	= \$650
Less refund to Claimant	= \$300
<u>Less payments</u>	<u>= \$950</u>
Balance Due NASD Regulation, Inc.	= \$0
2. Respondent, GKN Securities Corporation, be and hereby is solely liable for:

Member Fees	= \$1,000
Adjournment Fee	= \$0
Forum Fees	= \$3,800
<u>Administrative Costs</u>	<u>= \$0</u>

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 97-06056
Award Page 5 of 5

Total Fees	= \$4,800
<u>Less payments</u>	<u>= \$1,300</u>
Balance Due NASD Regulation, Inc.	= \$3,500

All balances are due to NASD Regulation, Inc. and are payable within 30 days of the service date of this Award.

Concurring Arbitrators' Signature(s)

Bertrand C. Moser, Esq.
Bertrand C. Moser, Esq.
Public Arbitrator, Presiding Chair

August 5, 1999
Signature Date

Antoinette M. Romano
Antoinette M. Romano
Public Arbitrator

August 5, 1999
Signature Date Antoinette M. Romano

Jane E. Bates
Jane E. Bates
Industry Arbitrator

August 4, 1999
Signature Date Jane E. Bates

August 6, 1999
Date of Service (For NASD office use only)

NASD Regulation, Inc. Office of Dispute Resolution
 Arbitration No. 97-06056
 Award Page 5 of 5

Total Fees	= \$4,800
Less payments	= \$1,300
Balance Due NASD Regulation, Inc.	= \$3,500

All balances are due to NASD Regulation, Inc. and are payable within 30 days of the service date of this Award.

Concurring Arbitrators' Signature(s)



Bertrand C. Moser, Esq.
 Public Arbitrator, Presiding Chair

8/5/99
 Signature Date

 Antoinette M. Romano
 Public Arbitrator

 Signature Date

 Jane E. Bates
 Industry Arbitrator

 Signature Date

 Date of Service (For NASD office use only)

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NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 97-06036
Award Page 5 of 5


Total Fees	= \$4,800
Less payments	= \$1,300
Balance Due NASD Regulation, Inc.	= \$3,500

All balances are due to NASD Regulation, Inc. and are payable within 30 days of the service date of this Award.

Concurring Arbitrators' Signature(s)

Bertrand C. Moser, Esq.
Public Arbitrator, Presiding Chair

Signature Date


Antoinette M. Romano
Public Arbitrator


Signature Date

Jane E. Bates
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 97-06056
Award Page 5 of 5

Total Fees	= \$4,800
Less payments	= \$1,300
Balance Due NASD Regulation, Inc.	= \$3,500

All balances are due to NASD Regulation, Inc. and are payable within 30 days of the service date of this Award.


Concurring Arbitrators' Signature(s)

Bertrand C. Moser, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Antoinette M. Romano
Public Arbitrator

Signature Date



Jane E. Bates (with change)
Industry Arbitrator

8/4/99

Signature Date

Date of Service (For NASD office use only)