

NASD REGULATION, INC.  
AWARD

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In the Matter of the Arbitration Between

Name of Claimant

Rae-Carole Fischer

vs.

Case No.  
98-00123

Name of Respondent

Charles B. Jenkins

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**REPRESENTATION**

For Claimant Rae-Carole Fischer ("Claimant"), appeared David A. Stampley, Esq. of the law firm Thelen Reid & Preist LLP, located in New York, New York.

Respondent Charles B. Jenkins ("Respondent") did not enter an appearance in this matter.

**CASE INFORMATION**

Claimant's Statement of Claim was filed on January 8, 1998.

Claimant's Submission Agreement was signed on January 16, 1998.

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

**HEARING INFORMATION**

Pre-Hearing Conference: September 30, 1998 - 1 session

Hearing Date/Sessions: November 9, 1998 - 2 sessions

The pre-hearing conference was held telephonically. The hearings were conducted at the offices of NASD Regulation, Inc. located in New York, New York.

### **CASE SUMMARY**

Claimant stated that she has invested with Respondent since 1979 and became the administrative and office manager of Respondent's business, J.C. Financial, in November, 1992. Claimant alleged that in 1994, Claimant signed trading authorization agreements and subordinated loan agreements with Gary A. Knopow, who was trading under Respondent's supervision and trading strategies. Claimant further alleged that she invested a total of \$151,000.00 with Respondent. Claimant asserted that the quarterly statements she received showed profitable trading. Claimant avered that, on October 15, 1997, she learned that the investments were virtually worthless almost from their inception. Claimant contended that, against her express instructions, she discovered Knopow had used her stock as collateral for a loan for the full value of the stock, thus fully converting the stock and arguably violating the margin rules. Claimant further contended that she has lost all her investment as well as the good will of the investor-clients whom she referred to Respondent and Knopow.

### **RELIEF REQUESTED**

Claimant requested rescission in the amount of \$151,000.00, representing the loss of Claimant's cash and stock investment, restoration of the principal of Claimant's account, punitive damages in accordance with proof at the time of the hearing, interest from the date of investment, costs and attorney's fees, and any such further relief which the panel deems just and proper.

### **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 Charles B. Jenkins who did not file a Statement of Answer or 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 arbitrators found subject matter jurisdiction over this entire controversy.
2. The panel found that Charles B. Jenkins was a person associated with a member of the NASD at the time this controversy arose. Accordingly, the panel found personal jurisdiction over Charles B. Jenkins pursuant to Rule 10301 of the Code.
3. The panel found that Charles B. Jenkins 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 Charles B. Jenkins 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 Charles B. Jenkins 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 Charles B. Jenkins whose absences was unexcused.
5. Claimant's petition was amended as to loss claimed to \$182,000.00.
6. The panel urges NASD to institute an investigation of Respondent for fraud and manipulation of customer funds as alleged by Claimant.

### 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 is liable and shall pay Claimant a total of \$137,000.00 in compensatory damages;
2. Respondent is also liable and shall pay Claimant 8.25% in post judgement interest from November 9, 1998 to date of payment;
3. Respondent is also liable and shall pay Claimant \$400,000.00 in punitive damages and \$15,000.00 in attorney's fees under the case law authority of 842 F. Supp. 106, as well as statutory authority pertaining to gross fraud and misrepresentation.

### FORUM FEES

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

1 Pre-Hearing Conference @ \$750.00 per session -	\$ 750.00
2 Hearing Sessions @ 750.00 per session -	\$1,500.00
Total Forum Fees -	\$2,250.00

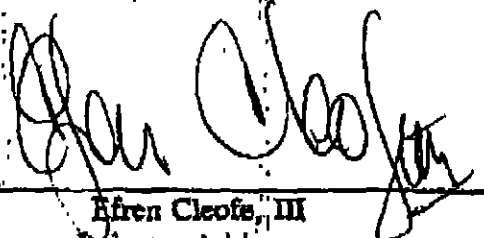
1. Respondent be and hereby is liable for and shall reimburse Claimant \$750.00 for the hearing session deposit;
2. Respondent be and hereby is liable for and shall pay NASD Regulation, Inc., the sum of \$1,500.00 representing the total forum fees assessed.

Fees are payable to NASD Regulation, Inc.

**ARBITRATION PANEL**

Richard W. Vallario, Esq. - Public Chairperson  
Khadijah B. Martin - Public Arbitrator  
Efren Cleofe, III - Industry Arbitrator

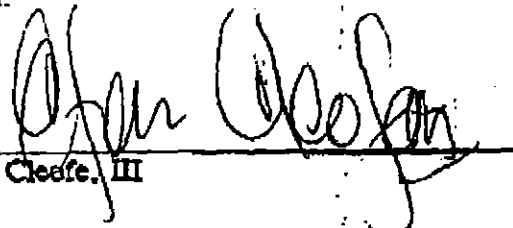
**CONCURRING ARBITRATOR'S SIGNATURE**

  
\_\_\_\_\_  
Efren Cleofe, III  
Industry Arbitrator

December 31, 1998

Date of decision: \_\_\_\_\_

I, Efren Cleofe, III, 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.

  
\_\_\_\_\_  
Efren Cleofe, III

**ARBITRATION PANEL**

Richard W. Vallario, Esq.	-	Public Chairperson
Khadijah B. Matin	-	Public Arbitrator
Efren Cleofe, III	-	Industry Arbitrator

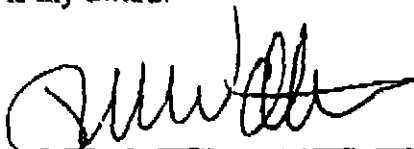
**CONCURRING ARBITRATOR'S SIGNATURE**



Richard W. Vallario, Esq.  
Chairperson-Public Arbitrator

Date of decision: December 31, 1998

I, Richard W. Vallario, 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.



Richard W. Vallario, Esq.

**ARBITRATION PANEL**

Richard W. Vallario, Esq.    -    Public Chairperson  
Khadijah B. Matin            -    Public Arbitrator  
Efren Cleofe, III             -    Industry Arbitrator

**CONCURRING ARBITRATOR'S SIGNATURE**

Khadijah B. Matin  
Khadijah B. Matin  
Public Arbitrator

Date of decision:    December 31, 1998

I, Khadijah B. Matin, 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.

Khadijah B. Matin  
Khadijah B. Matin