

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Bernadette S. Heyer, Claimant, v. Texas Capital Securities, Kenneth B. Karpf, Mike McGinnis and Thomas Buckley, Respondents.

Case Number: 98-02625

Hearing Site: St. Louis, Missouri

REPRESENTATION OF PARTIES

Claimant, Bernadette S. Heyer ("Claimant") was represented by Keith G. Liberman, Esq., Clayton, Missouri.

Respondents, Texas Capital Securities ("TCS"), Mike McGinnis ("McGinnis") and Thomas Buckley ("Buckley") were represented by Russell C. Burke, Esq., Englewood, Colorado.

Respondent Kenneth Browning Karpf ("Karpf") was not represented and failed to appear at the hearing.

CASE INFORMATION

Statement of Claim filed on or about: July 23, 1998.

Claimant signed the Uniform Submission Agreement on: March 31, 1998.

Statement of Answer filed by Respondents on or about: November 10, 1998.

Respondent, TCS, signed the Uniform Submission Agreement: November 9, 1998.

CASE SUMMARY

In her summary of the case, Claimant asserted that she deposited \$19,700.00 in an account with Respondents with the expectation, and subsequent confirmation that 10,000 shares of Boston Technology would be purchased with these funds. Respondents falsified various transactions in the account which included: Stealing money; not purchasing the shares as ordered; and parking stock in the account. These actions were intentionally concealed by: Fraudulently changing the address on the account and fraudulently providing false confirmation of stock purchases, sell short orders, and the cover short order to maintain Complainants the belief that there were in fact 10,000 shares of Boston Technology in the account at all times, long and short, margined, and covered pursuant to Claimant's orders.

Claimant further asserted that in an attempt to amicably straighten out these misdeeds with the broker's superiors, Claimant forwarded to Respondents \$75,000.00 to be placed in the account towards purchase of 10,000 shares of BSTN to replace the shares which should have been in the account. Respondents acknowledged receiving Claimant's instructions and inquiries with respect to the disposition of these communications, misappropriated the funds, wrongfully depositing them into the TCS business account.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

In her Statement of Claim, Claimant requested:

Compensatory Damages	\$ 559,915.50
Punitive Damages	\$1,119,831.00
Interest	\$unspecified
Attorneys' Fees	\$unspecified

Respondent(s) requested:

Other Monetary/Non-Monetary Relief if any: Dismissal of claim.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators determined that Respondent Karpf has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent(s) present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondents McGinnis, Karpf and Buckley did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code. McGinnis, Karpf and Buckley have answered the claim. McGinnis, and Buckley appeared at the hearing. McGinnis, Karpf and Buckley are bound by the determination of the Panel on all issues submitted.

McGinnis and Buckley requested that they be dismissed from this arbitration. The arbitrators denied the request.

Claimant requested that she be allowed to amend their complaint and expand discovery. The arbitrators denied the request. Claimant further requested that sanctions be imposed on Respondents. The request was denied by the arbitrators.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents Texas Capital Securities and Kenneth B. Karpf are jointly and severally liable for, and shall pay to the Claimant the following as satisfaction of her claims made herein: Compensatory damages of \$75,000.00; simple interest at the rate of 8% per annum from June of 1996, until paid; and attorney's fees of \$10,000.00.

Any and all relief not specifically addressed herein, including punitive damages, is denied.

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	= \$250.00
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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 a party.

Member surcharge	= \$2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$4,500.00

Adjournment Fees

Adjournments requested during these proceedings:

September 15 and 16, 1999,
adjournment by party Texas Capital Securities = \$1,000.00

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:

Two (2) Pre-hearing sessions with Panel x \$1,000.00	= \$2,000.00
Pre-hearing conference(s): June 2, 1999	1 session
September 16, 1999	1 session
Four (4) Hearing sessions x \$1,000.00	= \$4,000.00
Hearing Date(s): November 18, 1999	2 sessions
November 19, 1999	2 sessions
Total Forum Fees	= \$6,000.00

1. The Panel has assessed \$3,000.00 of the forum fees to Claimant.
2. The Panel has assessed \$3,000.00 of the forum fees to Texas Capital Securities.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

None.

Fee Summary

1. Claimant, Bernadette S. Heyer, be and hereby is solely liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 3,000.00
Administrative Costs	= \$ 0.00
Total Fees	= \$ 3,250.00
Less payments	= \$ 1,250.00
Balance Due NASD Regulation, Inc.	= \$ 2,000.00

2. Respondent, Texas Capital Securities, be and hereby is solely liable for:

Member Fees	= \$ 7,600.00
Adjournment Fee	= \$ 1,000.00
Forum Fees	= \$ 3,000.00
Administrative Costs	= \$ 0.00
Total Fees	= \$11,600.00

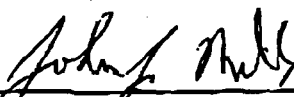
Less payments
Balance Due NASD Regulation, Inc.

= \$ 1,000.00
= \$10,600.00

All balances are due to NASD Regulation, Inc.
Concurring Arbitrators' Signature(s)

Paul Lansing
Public Arbitrator, Presiding Chair

Signature Date


John J. Miller
Public Arbitrator

December 17, 1999
Signature Date

Frank A. Niccoli
Industry Arbitrator

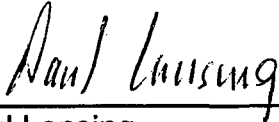
Signature Date

Date of Service (For NASD office use only)

<u>Less payments</u>	<u>= \$ 1,000.00</u>
Balance Due NASD Regulation, Inc.	= \$10,600.00

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature(s)



Paul Lansing
Public Arbitrator, Presiding Chair

16 Dec 99

Signature Date

John J. Miller
Public Arbitrator

Signature Date

Frank A. Niccoli
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

<u>Less payments</u>	<u>= \$ 1,000.00</u>
Balance Due NASD Regulation, Inc.	= \$10,600.00

All balances are due to NASD Regulation, Inc.

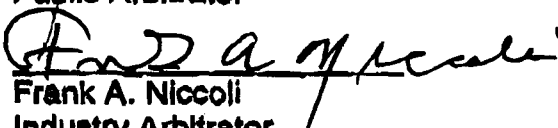
Concurring Arbitrators' Signature(s)

Paul Lansing
Public Arbitrator, Presiding Chair

Signature Date

John J. Miller
Public Arbitrator

Signature Date



Frank A. Niccoli
Industry Arbitrator

12-17-99
Signature Date

Date of Service (For NASD office use only)