

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Roger W. Kroschel, (Claimant) vs. Corporate Securities Group, J.W. Charles Clearing Corporation n/k/a JW Genesis Clearing Corporation and Morris W. Dante (Respondents).

Case Number: 99-01464

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimant, Roger W. Kroschel, hereinafter referred to as "Claimant": John A. Schmidt, Esq., The Law Offices of John A. Schmidt, P.C., Houston, Texas.

Respondents, Corporate Securities Group ("CSG"), J.W. Charles Clearing Corporation n/k/a JW Genesis Clearing Corporation ("JW Genesis") and Morris W. Dante ("Dante"), hereinafter collectively referred to as "Respondents": Charles E. Scarlett, Esq., Corporate Securities Group, Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: March 26, 1999

Claimant signed the Uniform Submission Agreement: March 23, 1999

Statement of Answer filed by Respondents on or about: June 1, 1999

Respondent, CSG, signed the Uniform Submission Agreement: May 27, 1999

Respondent, JW Genesis, signed the Uniform Submission Agreement: May 27, 1999

Respondent, Dante, signed the Uniform Submission Agreement: June 9, 1999

CASE SUMMARY

Claimant submitted the following case summary:

In his Original Statement of Claim, Roger W. Kroschel ("Claimant") alleges that the sale of 2,500 shares of Pacific Animated Imaging Corporation ("Pacific Imaging") and of 2,000 shares of 3COM Corporation ("3COM") from his account with Corporate Securities Group, Inc. ("CSG"), on April 21, 1997, as a result of a T-Call with respect to presumably his purchase of 3COM on April 14, 1997, was wrongful since: [i] Morris Dante ("Dante") had affirmatively and unquestionably misrepresented that Pacific Imaging

was marginable when he had solicited Claimant to place a limit order for the purchase of that stock at 12 2 on January 9, 1997; and [ii] by April 14, 1997, there were sufficient funds in Claimant's account attributable to the net proceeds from the sales, albeit unauthorized, of 9,000 shares of Coastal Foods, Inc. ("Coastal Foods") to purchase the aforesaid shares of both Pacific Imaging and 3COM if both securities were marginable.

Sales of those two (2) securities resulted in an essential liquidation of Claimant's account, and as Claimant alleges, were the direct result of actions by Dante and J.W. Charles Clearing Corporation ("JWC"), the fully-disclosed clearing broker for CSG. Claimant contends that JWC itself evidently believed at various times that Pacific Imaging was marginable, as is demonstrated in both the Mailgram from the clearing broker to Claimant to notify him of the T-Call at issue, and Claimant's account statement for March 1997. Claimant further avers that, after more than four (4) months during which Dante was unable to sell any of Claimant's shares of Coastal Foods in accordance with his instructions, Dante initiated sales of the aforementioned 9,000 shares of Coastal Foods without Claimant's authorization to conceal from Claimant the fact that Dante knew by March 27, 1997, that Pacific Imaging was not marginable, all of such sales taking place at market. Claimant further alleges that the irresponsible way in which Dante handled Claimant's account during the subject period is clearly indicative of a failure by CSG to properly supervise its registered representative. Moreover, Claimant also alleges that Dante's actions on April 21, 1997, in essentially selling out Claimant's account are a clear violation of his obligation to fairly deal with Claimant. Additionally, such irresponsible and improper liquidation of Claimant's account by Dante in response to the explicit direction from JWC to Dante to "sell out" Claimant's account results in JWC and CSG being jointly and severally responsible for Claimant's damages.

Further, Claimant avers that [i] much of the activity in Claimant's account involved margin trading; [ii] after a diligent search, Claimant has been unable to locate an executed margin agreement with respect to his account with CSG; and [iii] no such margin agreement was produced along with Respondents CSG, JWC, and Dante's Response to Claimant's First Request for Production of Documents, which request specifically sought A[a]ll forms executed by Claimant with [CSG], and/or [JWC] for the purpose of, or relating to, the opening and/or maintenance of his account at those entities (e.g., customer agreement, margin agreement, etc.). As

such, Claimant contends that the matters at issue in this case, at least with respect to margin transactions, must be governed by Texas law.

In their Statement of Answer, CSG, JWC and Dante (collective, "Respondents") denied the allegations of wrongdoing asserted against them by the Claimant. Respondents contend that the claims made against them are frivolous and are the result of Claimant's failure to properly time the market for the stocks he had chosen to purchase. Respondents further allege that all of the subject transactions were authorized and in some instances necessary to cover calls in Claimant's account precipitated by other purchases. Respondents also allege: [i] that Claimant's Statement of Claim fails to state a claim upon which relief can be granted; [ii] that Claimant is barred from asserting his claims due to the doctrine of laches, ratification and estoppel; [iii] that the losses in Claimant's account(s) at CSG were solely due to economic and/or market forces outside the control of CSG; [iv] that Claimant was aware of the risks inherent in investing in the stock market and Claimant's assumption of risk was the sole and proximate cause of his alleged damages; and [v] that Claimant failed to act with due diligence to mitigate his damages after he knew or should have known of the alleged acts or omissions of which Claimant complained.

Respondents submitted the following case summary:

Claimant Kroschel has alleged that Respondents improperly sold 2500 shares of Pacific Imaging Corporation ("Pacific Imaging") and 2000 shares of 3 Com Corporation ("3 Com") on April 21, 1997 to meet a "T-call" when Respondent Dante allegedly misrepresented that Pacific Imaging was marginable and there were otherwise sufficient funds from the unauthorized sale of Coastal Foods to purchase Pacific Imaging and 3 Com. Claimant requested compensatory damages of \$20,972.30 due to the decline in the market for Pacific Imaging and 3 Com from the purchase date until unauthorized sales on April 21, 1997 as well as lost profits of \$46,000.00 due to a future voluntary liquidation of 3 Com.

Respondent provided evidence to demonstrate that Claimant delivered a position of 40,835 share of Coastal Foods into his cash account and upon the purchase of another security, tendered additional cash rather than margin the Coastal Foods position. Additionally, Claimant, via Letters of Authorization transferred 18,933 shares of Coastal Foods to three (3) other individuals.

At about the same time that Claimant Kroschel directed that approximately 50% of his Coastal Food shares be transferred out of the account, he authorized Respondent Dante to place a limit order to purchase 2500

shares of Pacific Imaging at \$12.50 per share in the CASH account. The limit order remained open for approximately two (2) months until March 14, 1997 when the limit order was executed in the CASH account creating a debit of \$30,169.09. At the last minute, after the debit was created and two (2) months after the limit order was placed, Claimant Kroschel directed Respondent Dante to move the Coastal Foods' position and establish a margin account to cover the debt. That same day, Claimant Kroschel directed Respondent Dante to purchase 2000 shares of 3Com at \$32.00 also in the margin account. A Fed call was issued for 50% of the 3Com purchase (\$32,135.18) which remained unsatisfied.

Six days later on April 21, 1997, Claimant and Respondent Dante agreed to the entry of a limit order to sell 2500 shares of PAID and also sell 2000 shares of 3 Com at \$27.00 a share to cover the outstanding Fed call as a result of the PAID and 3 Com purchases of April 21, 1997. Claimant was well aware of the sales in his account when he requested and received \$10,000.00 of the resulting credit balance via wire the following day.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$65,419.87
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	unspecified

Respondents requested:

Dismissal of Claim	
Attorneys' Fees	unspecified

OTHER ISSUES CONSIDERED AND DECIDED

After review of the motions and responses and following oral arguments at the hearing, the Arbitrators granted Claimant's motion to late file a pre-hearing brief and denied Claimant's motion in limine.

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:-

1. Respondents, Corporate Securities Group, J.W. Charles Clearing Corporation n/k/a JW Genesis Clearing Corporation and Morris W. Dante, are jointly and severally liable for and shall pay to Claimant, Roger W. Kroschel, \$20,000 in compensatory damages plus simple interest at the rate of 10% beginning 30 days after the date of this award until paid;
2. Respondents, Corporate Securities Group, J.W. Charles Clearing Corporation n/k/a JW Genesis Clearing Corporation and Morris W. Dante, are jointly and severally liable for and shall pay to Claimant, Roger W. Kroschel, \$225 as reimbursement of the claim filing fee; and
3. Any and all relief not specifically addressed herein 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	= \$225
--------------------------	---------

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 firms are Corporate Securities Group and J.W. Charles Clearing Corporation n/k/a JW Genesis Clearing Corporation.

Member surcharge	= \$1,000
Pre-hearing process fee	= \$600
Hearing process fee	= \$1,500

Adjournment Fees

Adjournments requested during these proceedings:

December 20 and 21, 1999, adjournment by Corporate Securities Group	= \$750
--	---------

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 Panel x \$750	= \$750
Pre-hearing conference: September 8, 1999	1 session
Five (5) Hearing sessions x \$750	= \$3,750
Hearing Dates: March 28, 2000	2 sessions
March 29, 2000	3 sessions
Total Forum Fees	= \$4,500

1. The Panel has assessed \$4,500 of the forum fees jointly and severally to Corporate Securities Group, J.W. Charles Clearing Corporation n/k/a JW Genesis and Morris W. Dante.

Fee Summary

1. Claimant, Roger W. Kroschel, be and hereby is solely liable for:

Initial Filing Fee	= \$225
Total Fees	= \$225
<u>Less payments</u>	= \$1,425
Refund	= \$1,200
2. Respondent, Corporate Securities Group, be and hereby is solely liable for:

Member Fees	= \$3,100
Adjournment Fee	= \$750
Total Fees	= \$3,850
<u>Less payments</u>	= \$3,850
Balance Due NASD Regulation, Inc.	= \$0
3. Respondent, J.W. Charles Clearing Corporation n/k/a JW Genesis Clearing Corporation, be and hereby is liable for:

Member Fees	= \$3,100
Total Fees	= \$3,100
<u>Less payments</u>	= \$1,600
Balance Due NASD Regulation, Inc.	= \$1,500
4. Respondents, Corporate Securities Group, J.W. Charles Clearing Corporation n/k/a JW Genesis Clearing Corporation and William W. Dante, be and hereby are jointly and severally liable for:

Forum Fees	= \$4,500
Balance Due NASD Regulation, Inc.	= \$4,500

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures



Leonard J. Sullivan, Esq.
Public Arbitrator, Presiding Chair.

4-14-00

Signature Date

Donald K. Eckhardt, Esq.
Public Arbitrator

Signature Date

Glen Allen Engle, Esq.
Industry Arbitrator

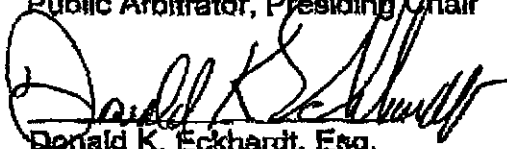
Signature Date

Date of Service (For NASD office use only)

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

Leonard J. Sullivan, Esq.
Public Arbitrator, Presiding Chair



Donald K. Eckhardt, Esq.
Public Arbitrator

Signature Date

4/13/00

Signature Date

Glen Allen Engle, Esq.
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Regulation, Inc., Office of Dispute Resolution
Award - case No. 99-01464
Page 7 of 7

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

Leonard J. Sullivan, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Donald K. Eckhardt, Esq.
Public Arbitrator

Signature Date

Glen Allen Engle, Esq.
Industry Arbitrator

4-12-2000

Signature Date

Date of Service (For NASD office use only)