

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

GKN Securities Corp., (Claimant) vs. Vincent Caracciolo, (Respondent)

Case Number: 99-02850

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimant, GKN Securities Corp., hereinafter referred to as "Claimant": David W. Schmidt, Esq., Lubiner & Schmidt, Kenilworth, NJ. Previously represented by: Herbert O. Sontz, Esq., General Counsel, GKN Securities Corp., New York, NY and Michael S. Colombo, Vice President, GKN Securities Corp., New York, NY.

Respondent, Vincent Caracciolo, hereinafter referred to as "Respondent", did not enter an appearance in this matter.

**CASE INFORMATION**

Statement of Claim filed on or about: June 17, 1999.

Amended Statement of Claim filed on or about: October 13, 1999.

Claimant signed the Uniform Submission Agreement: June 21, 1999.

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

**CASE SUMMARY**

Claimant asserted the following cause of action: breach of promissory note.

**RELIEF REQUESTED**

In its Statement of Claim, Claimant requested compensatory damages in the amount of \$39,749.70 together with interest, costs, attorneys' fees, and any and all additional relief as the Panel may deem just and proper.

In its Amended Statement of Claim, Claimant requested compensatory damages in the amount of \$24,000.00 together with interest, costs, attorneys' fees, and any and all additional relief as the Panel may deem just and proper.

**OTHER ISSUES CONSIDERED AND DECIDED**

Upon review of the file and the representations made on behalf of the Claimant, the

undersigned arbitrator (the "Arbitrator") determined that Respondent 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 present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Arbitrator on all issues submitted.

The Claimant, the only party to have participated in the hearing in this matter, has 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 Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$24,000.00 as compensatory damages, plus interest at the rate agreed to in the promissory note of 14% per annum accruing from January 12, 2000 until paid.
2. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$5,983.04 as attorneys' fees and expenses. The Arbitrator awarded attorneys' fees and expenses pursuant to the terms of the promissory note signed by Respondent.
3. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$1,000.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution, Inc.
4. All other requests for relief are hereby denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$1,000.00
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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 that employed the associated person at the time of the events giving rise to the dispute. In this matter, GKN Securities Corp. is a party.

Member surcharge	= \$ 800.00
Pre-hearing process fee	= \$ 200.00

#### **Forum Fees and Assessments**

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

One (1) Pre-hearing session with a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conference: June 7, 2000 1 session	
One (1) Hearing session x \$450.00	= \$ 450.00
Hearing Date: August 8, 2000 1 session	
Total Forum Fees	= \$ 900.00

The Arbitrator has assessed all of the forum fees against Respondent.

#### **Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$1,000.00
Member Fees	= \$1,000.00
Total Fees	= \$2,000.00
Less payments	= \$3,850.00
Refund Due Claimant	= \$1,850.00

*As stated in the "Award" section above, Respondent is liable for and shall reimburse Claimant for the \$1,000.00 filing fee.*

2. Respondent be and hereby is solely liable for:

Forum Fees	= \$ 900.00
Total Fees	= \$ 900.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 900.00

All balances are due and payable to NASD Dispute Resolution, Inc.

**Arbitrator's Signature**

I, the undersigned arbitrator, 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.

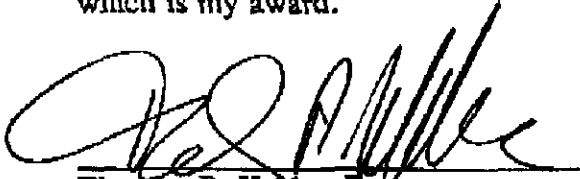
/s/ \_\_\_\_\_  
Timothy P. Kebbe, Esq.  
Industry Arbitrator

September 19, 2000  
Signature Date

September 20, 2000 \_\_\_\_\_  
Date of Service (For NASD office use only)

**Arbitrator's Signature**

I, the undersigned arbitrator, 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.

  
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Timothy P. Kebbe, Esq.  
Industry Arbitrator

9/19/00  
\_\_\_\_\_  
Signature Date

September 20, 2000  
Date of Service (For NASD office use only)