

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

John Roth, III (Claimant) vs. GKN Securities Corp. and Research Partners International, inc. (Respondents).

Case Number: 98-04988

Hearing Site: San Francisco, California.

REPRESENTATION OF PARTIES

For Claimant: Cary S. Lapidus, Esq., The Law Offices of Cary S. Lapidus, San Francisco California.

For Respondents: Philip A. McLeod, Esq., Keesal, Young & Logan, San Francisco, California.

CASE INFORMATION

Statement of Claim filed on or about: December 29, 1998.

Claimant signed the Uniform Submission Agreement: December 15, 1998.

Joint Statement of Answer filed on or about: April 26, 1999.

GKN Securities Corp. executed the Uniform Submission Agreement: April 28, 1999.

Research Partners International executed the Uniform Submission Agreement: March 2, 1999.

CASE SUMMARY

Claimant alleged that he was a public customer of GKN Securities, Corp. and that Research Partners International, Inc. was the parent corporation of GKN. Claimant asserted claims arising out of the liquidation by GKN of securities in his margin account on October 8, 1998. Claimant asserted that (1) GKN did not have the authority to sell-out his securities under the margin agreement Claimant signed with the clearing broker, Schroder & Co., and that only Schroder could exercise such discretion to sell-out Claimant's securities, and (2) even if GKN had the authority under the margin agreement to sell-out Claimant's securities, GKN was still required to act in accordance with its fiduciary duties under state law and just and equitable principles of trade under NASD Conduct Rule 2110. Claimant alleged that Respondents breached their fiduciary duty and failed to act in accordance with just and equitable principles of trade in connection with the liquidation of Claimant's securities under the circumstances of this case.

Respondents requested that the arbitrators dismiss the Statement of Claim in its entirety, that the arbitration be expunged from GKN's CRD record, and that Respondents be awarded costs. Respondents also request that Claimant be assessed forum fees.

RELIEF REQUESTED

Claimant requested that the sell-out trades be rescinded and that the securities sold by Respondents in October 1998 be restored to his account in exchange for the consideration Claimant received from the sales. These securities are:

- a) 47,250 shares of Winstar Communications Inc.
(taking into account a 3 for 2 stock split subsequent to the sell-out)
- b) 2,000 shares of Sovereign Bancorp, Inc.
- c) 1,200 shares of Merisel, Inc.
- d) 7,500 shares of 3DO Co.

In addition to rescission and a restoration of the securities sold-off in the Claimant's account, Claimant further requested an award of attorneys' fees, punitive damages and the costs of bringing the proceeding.

In the alternative, Claimant requested compensatory damages, together with the costs of bringing the proceeding, interest attorneys' fees and punitive damages.

Respondents requested that the arbitrators dismiss the Statement of Claim in its entirety, that the arbitration proceeding be expunged from GKN's CRD record and that Claimant be assessed forum fees.

OTHER ISSUES CONSIDERED AND 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.

AWARD

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

1. Respondent GKN Securities Corp. is found liable to Claimant as set forth herein. Upon tender by Claimant of \$179,136.00 to Respondent GKN, Respondent GKN shall deposit into Claimant's securities account at a brokerage firm of Claimant's choosing 18,857 shares of Winstar Communications Inc.;
2. As to Respondent Reseach Partners International, Inc., Claimant's claim is dismissed in its entirety;
3. Respondent GKN's request for expungement is denied;

4. Each side to bear their own costs and expenses, including attorneys' fees;
5. All other claims / requests for relief asserted by the parties are denied 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 = \$250

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 GKN Securities Corp., the member firm, is a party.

Member surcharge = \$1,200

Pre-hearing process fee = \$ 600

Hearing process fee = \$2,000

Forum Fees and Assessments

The Arbitrator 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(s): April 26, 2000 1 session.

Two (2) Pre-hearing sessions with Panel x \$600 = \$1,200

Pre-hearing conference(s): January 14, 2000 1 session;

March 10, 2000 1 session.

Ten (10) Hearing sessions x \$600 = \$6,000

Hearing Date(s): May 22, 2000 2 sessions;

May 23, 2000 2 sessions;

May 24, 2000 2 sessions;

May 25, 2000 2 sessions;

May 26, 2000 2 sessions.

Total Forum Fees = \$9,500

1. The Panel has assessed \$4,750 of the forum fees to Claimant.
2. The Panel has assessed \$4,750 of the forum fees to GKN Securities Corp.

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.

1. Claimant requested an audio transcript copy = \$15
2. Respondent GKN requested an audio transcript copy = \$15

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 250
Forum Fees	= \$4,750
<u>Administrative Costs</u>	<u>= \$ 15</u>
Total Fees	= \$5,015
<u>Less payments</u>	<u>= \$ 950</u>
Balance Due NASD Regulation, Inc.	= \$4,065

2. Respondent GKN Securities Corp. is solely liable for:

Member Fees	= \$3,800
Forum Fees	= \$4,750
<u>Administrative Costs</u>	<u>= \$ 15</u>
Total Fees	= \$8,565
<u>Less payments</u>	<u>= \$3,800</u>
Balance Due NASD Regulation, Inc.	= \$4,765

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signature(s)



Susan B. Chris-Smith, Esq.
Public Arbitrator, Presiding Chair

6-12-2000
Signature Date

Michael R. Golding, M.D.
Public Arbitrator

Signature Date

William Richard Smith
Industry Arbitrator

Signature Date

Date Served:

JUN 16 2000