

**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Gerald Olgin, Claimant v. Biltmore Securities, Inc., Marc Sitzler, Alan Siemens, Elliott Loewenstern and Richard Bronson, J.B. Oxford & Company, Respondents

Case Number: 00-00975

Hearing Site: Buffalo, New York

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**REPRESENTATION OF PARTIES**

Claimant, Gerald Olgin, hereinafter referred to as "Claimant": Harter, Secrest & Emery LLP, Peter H. Abdella, Esq., of Counsel, 1600 Bausch & Lomb Place, Rochester, New York 14604.

Respondents, Biltmore Securities, Inc., Marc Sitzler, Alan Siemens, Elliott Loewenstern and Richard Bronson, hereinafter (collectively) referred to as "Respondents": Delmer C. Gowing, III, Esq., 101 S.E. 6<sup>th</sup> Avenue, Delray Beach, Florida 33483-5261.

Respondent, J.B. Oxford & Company ("J.B. Oxford"): Cynthia M. Schleindl, Esq., Miller Milove & Kob, San Diego, CA.

**CASE INFORMATION**

Statement of Claim filed on or about: March 2, 2000

Claimant Gerald Olgin signed the Uniform Submission Agreement: January 4, 2000

Statement of Answer filed by Respondents on or about: May 3, 2000

Respondents signed the Uniform Submission Agreement: May 14, 2000

Statement of Answer filed by J.B. Oxford filed on or about: May 5, 2000

J.B. Oxford signed the Uniform Submission Agreement: August 31, 2000

**CASE SUMMARY**

Claimant asserted the following causes of action: unauthorized trading and violations of suitability standards

Unless specifically admitted in its Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted the following defenses: Claimant was a sophisticated investor

Unless specifically admitted in its Answer, J.B. Oxford denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested damages in the amount of \$185,994.62, together with interest.

Respondents requested dismissal of the Statement of Claim in its entirety.

### **OTHER ISSUES CONSIDERED AND DECIDED**

J.B. Oxford moved for dismissal by pre-hearing motion, which the Panel granted.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

### **AWARD**

On September 23, 2003, the parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu for a hearing and upon motion of both parties for entry of an Award, and upon written stipulation, the Panel grants the motion and enters this award granting the following relief:

1. The Claimant is entitled to an award against Respondent Biltmore Securities, Inc. in the amount of \$110,000.00.
2. The Claimant has dismissed all claims with prejudice against Respondents Marc Sitzler, Alan Siemens, Elliott Loewenstern and Richard Bronson.
3. 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	= \$ 300.00
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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(s) at the time of the events giving rise to the dispute. In this matter, Biltmore Securities and J.B. Oxford are parties.

Member Surcharge	= \$ 1,500.00
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Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	= \$ 2,500.00
Total Member Fees	= \$ 4,600.00

#### **Adjournment Fees**

The following adjournment fees are assessed:

July 24, 25 and 26, 2001, requested by Claimant	= \$ 1,125.00
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#### **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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Forum fees associated with these proceedings are:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125.00	= \$ 2,250.00
Pre-hearing conference: February 7, 2001 1 session	
Pre-hearing conference: April 2, 2001 1 session	

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Total Forum Fees	= \$ 2,250.00
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1. The Panel has assessed \$375.00 of the forum fees against Claimant.
2. The Panel has assessed \$375.00 of the forum fees against Biltmore Securities.
3. The Panel has assessed \$375.00 of the forum fees against Elliot Loewenstern.
4. The Panel has assessed \$375.00 of the forum fees against Alan Siemens.
5. The Panel has assessed \$375.00 of the forum fees against Marc Sitzer.
6. The Panel has assessed \$375.00 of the forum fees against Richard Bronson.

#### **Fee Summary**

1. Claimant is solely liable for:	
Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 1,125.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 1,800.00
<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 375.00

2. Biltmore is solely liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 4,975.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 4,975.00

3. J.B. Oxford is solely liable for:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

4. Elliot Loewenstern is solely liable for:

Forum Fees	= \$ 375.00
Total Fees	= \$ 375.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 375.00

5. Alan Siemens is solely liable for:

Forum Fees	= \$ 375.00
Total Fees	= \$ 375.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 375.00

6. Marc Sitzer is solely liable for:

Forum Fees	= \$ 375.00
Total Fees	= \$ 375.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 375.00

7. Richard Bronson is solely liable for:

Forum Fees	= \$ 375.00
Total Fees	= \$ 375.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 375.00

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

Parties' Signatures

Dated: 9/30/03

DELMAR C. GOWING, III, P.A.

By: 

Delmar C. Gowing, III, Esq.  
Florida Bar # 833509  
Attorney for Respondents  
101 S.E. 6<sup>th</sup> Avenue  
Delray Beach, Florida 33483-5261

DATED: 10/10/03

HARTER, SECREST & EMERY LLP

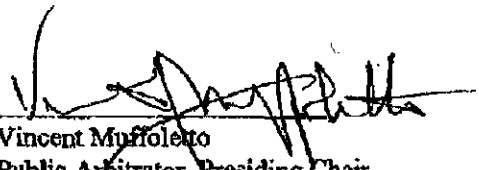
By: 

Peter H. Abdella, Esq., of Counsel  
Attorneys for Claimant  
1600 Bausch & Lomb Place  
Rochester, New York 14604-2070

ARBITRATION PANEL

Vincent Muffoletto	-	Public Arbitrator, Presiding Chair
David K. Silverberg	-	Public Arbitrator
Patrick Markey	-	Industry Arbitrator

Concurring Arbitrators' Signatures

  
\_\_\_\_\_  
Vincent Muffoletto  
Public Arbitrator, Presiding Chair

1-8-04  
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Signature Date

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David K. Silverberg  
Public Arbitrator

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Signature Date

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Patrick Markey  
Industry Arbitrator

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Signature Date

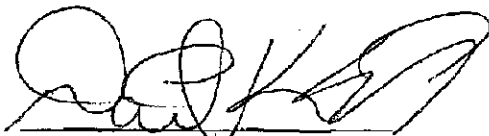
January 9, 2004  
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Date of Service (For NASD office use only)

**ARBITRATION PANEL**

Vincent Muffoletto	-	Public Arbitrator, Presiding Chair
David K. Silverberg	-	Public Arbitrator
Patrick Markey	-	Industry Arbitrator

**Concurring Arbitrators' Signatures**

Vincent Muffoletto  
Public Arbitrator, Presiding Chair



David K. Silverberg  
Public Arbitrator

Signature Date

10/24/03  
Signature Date

Patrick Markey  
Industry Arbitrator

Signature Date

January 9, 2004

Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.

Arbitration No. 00-00975

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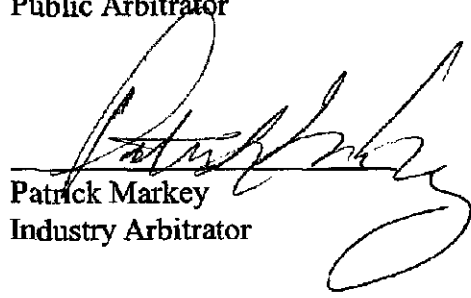
**Concurring Arbitrators' Signatures**

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Vincent Muffoletto  
Public Arbitrator, Presiding Chair

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Signature Date

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David K. Silverberg  
Public Arbitrator

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Signature Date

  
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Patrick Markey  
Industry Arbitrator

10/28/03  
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Signature Date

\_\_\_\_\_  
January 9, 2004  
Date of Service (For NASD office use only)