

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

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In the Matter of the Arbitration Between:

Names of the Claimants

Taufiqul I. and Owmwatie Chowdhury

Case Number: 01-00913

Names of the Respondents

Michael Paul Borrone  
J.B. Oxford & Company

Hearing Site: Boca Raton, Florida

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**REPRESENTATION OF PARTIES**

For Taufiqul I. and Owmwatie Chowdhury ("Chowdhury"), hereinafter collectively referred to as "Claimants": Dale Ledbetter, Mastriana & Christiansen, PA, Fort Lauderdale, Florida and William J. Gladden, Savannah, Georgia, as co-counsel.

For Michael Paul Borrone ("Borrone") and J.B. Oxford & Company ("J.B."), hereinafter collectively referred to as "Respondents": Cynthia M. Schleindl, Miller Milove & Kob, San Diego, California.

**CASE INFORMATION**

Statement of Claim filed on or about: February 23, 2001.

Amended Statement of Claim filed on or about: July 10, 2002.

Claimants signed the Uniform Submission Agreement: November 28, 2000.

Statement of Answer and "Cross claim" filed by Respondents on or about: October 23, 2001.

Respondent Borrone signed the Uniform Submission Agreement: February 11, 2002.

Respondent J.B. signed the Uniform Submission Agreement: October 23, 2001.

**CASE SUMMARY**

Claimants asserted the following: 1) Respondents committed fraud; 2) Respondents breached their fiduciary duty to Claimants; 3) Respondents' actions constituted negligence; and 4) Respondent J.B. negligently supervised Respondent Borrone. The causes of action relate to the purchase and sale of securities of Chemdex Corporation, Emulex Corporation, Purchasepro.com, Inc. and numerous other securities in Claimants' account.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

Further, Respondents J.B. and Borrone asserted a "cross claim" against Claimants which asserted that Claimants breached their Agreements with Respondent by failing to pay an account debt.

### **RELIEF REQUESTED**

Claimants requested compensatory damages of \$567,523.00, plus interest of \$209,213.00, punitive damages, attorney's fees, the costs of this proceeding and such other relief as is deemed just and proper.

Respondents requested that all claims against them be dismissed. Further, in their "cross claim", Respondents requested compensatory damages of \$19,260.83, plus interest, attorneys' fees, costs and such other and further relief as is deemed just and proper.

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

The parties have agreed that the Award in this matter may be executed in counterpart copies.

At the commencement of the evidentiary hearing, the undersigned arbitrators (the "Panel") granted Respondents' Motion to Amend their "Cross-Claim" to include a request for attorney's fees and costs as provided under the Account Application and Agreement.

### **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. Claimants' claims are denied in their entirety and all claims by Claimants are dismissed.
2. Claimants are liable, jointly and severally, and shall pay to Respondents the sum of \$22,645.00 (inclusive of prejudgment interest), plus post-judgment interest at the Florida legal rate from July 21, 2002 until the Award is paid in full. Damages are awarded based upon Claimants' breach of agreement with Respondents.
3. Claimants are liable, jointly and severally, and shall pay to Respondents the sum of \$750.00 representing reimbursement of the counterclaim filing fee previously paid by Respondents to NASD.
4. Any and all other requests for relief not specifically addressed herein, including Claimants' request for punitive damages and the parties' requests for attorneys' fees, are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

#### **Filing Fees**

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 375.00
Counterclaim filing fee	= \$ 450.00

### **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. Accordingly, J.B. Oxford and Company is a party.

Member surcharge	= \$2,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$3,500.00

### **Adjournment Fees**

No adjournments were granted during these proceedings for which fees were assessed.

### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were incurred during these proceedings.

### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel @ \$1,200.00	= \$1,200.00
Pre-hearing conference: January 28, 2002	1 session
Seven (7) Hearing sessions @ \$1,200.00	= \$8,400.00
Hearing Dates: July 16, 2002	1 session
July 17, 2002	2 sessions
July 18, 2002	2 sessions
July 19, 2002	2 sessions
Total Forum Fees	= \$9,600.00

The Panel has assessed the total forum fees of \$9,600.00 jointly and severally to Claimants.

### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative fees were incurred during these proceedings.

**Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$9,600.00
Total Fees	= \$9,975.00
Less payments	= \$1,575.00
Balance Due NASD	= \$8,400.00

2. Respondent J.B. is solely liable for:

Member Fees	= \$6,100.00
Total Fees	= \$6,100.00
Less payments	= \$6,100.00
Balance Due NASD	= \$ 0.00

3. Respondents J.B. and Borrone are jointly and severally liable for:

Counterclaim Filing Fee	= \$ 750.00
Total Fees	= \$ 750.00
Less payments	= \$ 750.00
Balance Due NASD	= \$ 0.00

All balances are payable to NASD and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Nancy J. Cliff, Esq.	-	Public Arbitrator, Presiding Chairperson
Arthur J. Leibell, Esq.	-	Public Arbitrator
Arnold Levine, Esq.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Nancy J. Cliff, Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

/s/  
Arnold Levine, Esq.

\_\_\_\_\_  
Signature Date

Non-Public Arbitrator

**Concurring in Part, Dissenting in Part Arbitrator's Signature**

/s/

Arthur J. Leibell, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

This arbitrator respectfully  
dissents from the decision to deny  
Respondents' request for attorneys'  
fees.

August 30, 2002

Date of Service (For NASD Dispute Resolution office use only)

No administrative fees were incurred during these proceedings.

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Total Fees	= \$9,975.00
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Total Fees	= \$ 750.00
Less payments	= \$ 750.00
Balance Due NASD	= \$ 0.00

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### ARBITRATION PANEL

Nancy J. Cliff, Esq.

Arthur J. Leibell, Esq.

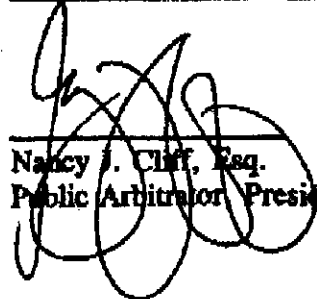
Arnold Levine, Esq.

Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

### Concurring Arbitrators' Signatures



Nancy J. Cliff, Esq.

Public Arbitrator, Presiding Chairperson

8/28/02

Signature Date

  
Arnold Levine, Esq.  
Non-Public Arbitrator

8/30/02  
Signature Date

Concurring in Part, Dissenting in Part Arbitrator's Signature

\_\_\_\_\_  
Arthur J. Leibel, Esq.  
Public Arbitrator  
This arbitrator respectfully  
dissents from the decision to deny  
Respondents' request for attorneys'  
fees.

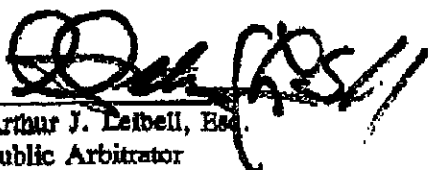
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Signature Date

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)

Arnold Levine, Esq.  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

Concurring in Part, Dissenting in Part Arbitrator's Signature



Arthur J. Leibell, Esq.  
Public Arbitrator

This arbitrator respectfully  
dissents from the decision to deny  
Respondents' request for attorneys'  
fees.

Aug 17 29, 2002  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)