

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

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In the Matter of the Arbitration Between:

Howard and Pearl Strauss, Claimant v. J.B. Oxford & Company and Michael N. Wintjen,  
Respondents

Case Number: 01-01814

Hearing Site: San Diego, California

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**REPRESENTATION OF PARTIES**

For Claimants:

Paul W. Thomas, Esq.  
Paul W. Thomas & Associates  
Carlsbad, California

For Respondents:

Jeffrey S. Kob, Esq.  
Miller Milove & Kob  
San Diego, California

**CASE INFORMATION**

Statement of Claim filed: April 6, 2001

Claimants' Uniform Submission Agreement signed: April 16, 2001

Joint Statement of Answer filed by Respondents J.B. Oxford & Company and  
Michael N. Wintjen: June 14, 2001

Respondent J.B. Oxford & Company's Uniform Submission Agreement signed: May 29, 2001

**CASE SUMMARY**

Claimants alleged breach of contract, breach of fiduciary duty, misrepresentation, suitability, unauthorized trading, failure to supervise, violation of NASD Rules, and negligence.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$1,100,000.00, punitive damages in the amount of \$3,300,000.00, interest, and reimbursement for arbitration costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, and also requested "Claimants indemnify and hold Respondents harmless from any expenses, costs, damages, claims, suits and/or proceedings."

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

Respondent Michael N. Wintjen did not file with the NASD Dispute Resolution, Inc. a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

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**

After considering the pleadings, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents J.B. Oxford & Company and Michael N. Wintjen are jointly and severally liable to and shall pay Claimant Howard Strauss \$100,000.00 in compensatory damages.
- 2) Respondents J.B. Oxford & Company and Michael N. Wintjen are jointly and severally liable to and shall pay Claimant Pearl Strauss \$50,000.00 in compensatory damages.
- 3) Respondents J.B. Oxford & Company and Michael N. Wintjen are jointly and severally liable to and shall pay Claimants Howard and Pearl Strauss \$600.00 for reimbursement of filing fees.
- 4) Claimants' request for punitive damages is denied.
- 5) The parties shall bear their respective costs, including attorney's fees.
- 6) All other relief requested and not expressly granted is denied.

- 6) The parties shall bear their respective costs, including attorney's fees.
- 7) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 600.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm J.B. Oxford & Company is a party and the following fees are assessed:

Member Surcharge	= \$ 2,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 4,500.00</u>
<b>Total Member Fees</b>	<b>= \$ 7,600.00</b>

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

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: January 28, 2002 1 session	

1 Pre-hearing conference session with the Panel @ \$ 1,200.00/session	= \$ 1,200.00
Pre-hearing conference: December 21, 2001 1 session	

8 Hearing sessions @ \$ 1,200.00/session	= \$ 9,600.00
Hearings: April 22, 2002 2 sessions	
April 23, 2002 2 sessions	
April 24, 2002 2 sessions	
April 25, 2002 2 sessions	

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<b>Total Forum Fees</b>	<b>= \$ 11,250.00</b>
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The Panel assessed \$ 11,250.00 of the forum fees jointly and severally to Respondents J.B. Oxford & Company and Michael N. Wintjen.

**Fee Summary**

1. Claimants Howard and Pearl Strauss are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 600.00
<u>Less payments</u>	= \$(1,800.00)
<b>Refund Due Claimants</b>	<b>= \$(1,200.00)</b>

2. Respondent J.B. Oxford & Company is charged with the following fees and costs:

Member Fees	= \$ 7,600.00
<u>Less payments</u>	= \$(7,600.00)
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 0.00</b>

2. Respondents J.B. Oxford & Company and Michael N. Wintjen are charged jointly and severally with the following fees and costs:

Forum Fee	= \$ 11,250.00
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 11,250.00</b>


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

NASD Dispute Resolution, Inc.  
Arbitration No. 01-01814  
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**ARBITRATION PANEL**

William W. Huss	-	Public Arbitrator, Presiding Chair
Joseph C. Roberts	-	Public Arbitrator
Thomas J. Doherty	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
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William W. Huss  
Chair, Public Arbitrator

5/10/02  
Signature Date

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Joseph C. Roberts  
Public Arbitrator

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

\_\_\_\_\_  
Thomas J. Doherty  
Non-Public Arbitrator

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

5/14/02  
Date of Service

**ARBITRATION PANEL**

William W. Huss	-	Public Arbitrator, Presiding Chair
Joseph C. Roberts	-	Public Arbitrator
Thomas J. Doherty	-	Non-Public Arbitrator

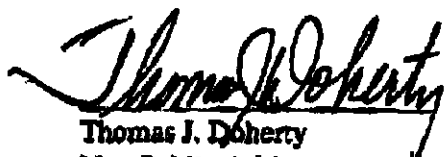
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Chair, Public Arbitrator

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Signature Date

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Joseph C. Roberts  
Public Arbitrator

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Signature Date

  
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Thomas J. Doherty  
Non-Public Arbitrator

  
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Signature Date

  
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Date of Service