

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Edward E. Greco

v.

03-03317

Minneapolis, Minnesota

Respondents

National Clearing Corporation f/k/a J.B. Oxford & Company

Nature of Dispute: Customer v. Member

REPRESENTATION OF PARTIES

Edward E. Greco ("Claimant") was represented by Daniel D. Hill, Esq., of Hill Law Office, Maple Grove, Minnesota.

National Clearing Corporation f/k/a J.B. Oxford & Company ("Respondent") was represented by Jeffrey Kob, Esq. of Miller Milove & Kob, San Diego, California.

CASE INFORMATION

The Statement of Claim was filed on or about May 6, 2003. Submission Agreement of Claimant was signed on or about May 1, 2003.

Statement of Answer was filed by Respondent National Clearing Corporation f/k/a J.B. Oxford & Company on or about August 5, 2003. Submission Agreement of Respondent National Clearing Corporation f/k/a J.B. Oxford & Company was signed on or about May 22, 2003.

Claimant filed a Motion to Exclude Evidence in Defense of Respondent on or about July 25, 2003. Respondent filed an Opposition to Motion to Exclude Evidence in Defense of Respondent on or about December 3, 2003.

CASE SUMMARY

Claimant asserted causes of action including the following: negligence, breach of fiduciary duty, statutory misrepresentation, suitability, and breach of contract. The causes of action related to Claimant's allegation that Respondent assured him that he could avoid tax penalties by moving monies from his qualified IRA account into a non-qualified IRA account for investment trading purposes. Claimant asserted that Respondent assured Claimant that by returning to the qualified account, a value in cash or any stock equivalent to the amount transferred out of the qualified

account within 60 days, Claimant would be not responsible for any adverse tax consequences. Claimant alleged that after he tried to replenish his qualified account with the all of the holdings in his non-qualified account within the sixty day time period, Respondent informed him that the transfer would be denied and that Claimant would have to return 13,700 shares of TPP common stock back into the qualified account to preserve the tax-deferred status. Claimant did not have the required stock, and as a result, used his margin account to leverage all of his stocks in his non-qualified account and limit the tax-deferred status loss in his qualified account from \$378,300 to \$108,300.

Respondents denied the allegations set forth in the Statement of Claim and asserted affirmative defenses including the following: Claimant failed to state a claim upon which relief can be granted; Claimant is estopped from asserting his Statement of Claim, and each cause of action stated therein, by reason of his own acts, omissions, representations; Claimant's claims are barred by the doctrines of consent, authorization and ratification; Claimant failed to, refused, and neglected to exercise reasonable care and diligence in mitigating his alleged damages, if any, thus barring or diminishing Claimant's recovery; and any loss, injury or damage suffered by Claimant or Claimant's accounts was the result of action by Claimant, entities other than Respondent and/or other factors beyond the control of Respondent.

RELIEF REQUESTED

Claimant requested an award in the amount of \$112,000 in compensatory damages, plus interest, attorney's fees, costs and any other relief that the panel deemed just and equitable.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

At the arbitration hearing, all parties agreed that John C. DeMoss, Esq., would serve as the chairperson of this arbitration case.

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. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with NASD Dispute Resolution ("NASD").

AWARD

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

1. Respondent, National Clearing Corporation f/k/a J.B. Oxford & Company, is liable for and shall pay to Claimant, Edward E. Greco, the sum of Forty Six Thousand Four Hundred Ninety Four Dollars and No Cents (\$46,494.00) in compensatory damages;
2. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, are denied with prejudice; and
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys' fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 300

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, the member firm is National Clearing Corporation f/k/a J.B. Oxford & Company.

Member surcharge = \$ 1,700
Pre-hearing process fee = \$ 750
Hearing process fee = \$ 2,750

Adjournments granted during these proceedings:

Hearing Dates, May 12-14, 2004

Adjournment requested by Respondent National Clearing Corporation
f/k/a J.B. Oxford & Company (Fee Waived By Panel)

= \$ 1,125

Forum Fees and Assessments

The Arbitration 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. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$ 1,125 = \$ 1,125

Pre-hearing conference: 11/19/2003 1 session

Three (3) Hearing sessions with Panel x \$ 1,125 = \$ 3,375

Hearing Dates: 06/01/2004 2 sessions
06/02/2004 1 session

Total Forum Fees = \$ 4,500

The Arbitration Panel has assessed \$ 2,250 of the forum fees to Edward E. Greco

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Fee Summary

Claimant, Edward E. Greco is liable for:

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|-------------------------------------|-------------------|
| Initial Filing Fee | = \$ 300 |
| <u>Forum Fees</u> | <u>= \$ 2,250</u> |
| Total Fees | = \$ 2,550 |
| <u>Less payments</u> | <u>= \$ 1,425</u> |
| Balance Due NASD Dispute Resolution | = \$ 1,125 |

Respondent, National Clearing Corporation f/k/a J.B. Oxford & Company, is liable for:

Member Fees = \$ 5,200

| | |
|-------------------------------------|------------|
| Forum Fees | = \$ 2,250 |
| Total Fees | = \$ 7,450 |
| Less payments | = \$ 5,200 |
| Balance Due NASD Dispute Resolution | = \$ 2,250 |

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

ARBITRATION PANEL

John C. DeMoss, Esq. - Public Arbitrator, Presiding Chair

John D. Campion - Public Arbitrator

Gerald J. Shaugnessy- Non-Public Arbitrator

Concurring Arbitrators:

John C. DeMoss, Esq.
Public Arbitrator, Presiding Chair

Signature Date

John D. Campion
Public Arbitrator

Signature Date

Gerald J. Shaugnessy
Non-Public Arbitrator

Signature Date

5/10/04
Date of Service (NASD use only)

| | |
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John D. Campion - Public Arbitrator
Gerald J. Shaugnessy- Non-Public Arbitrator

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John C. DeMoss, Esq.
Public Arbitrator, Presiding Chair

6-9-04
Signature Date

John D. Campion
Public Arbitrator

Signature Date

Gerald J. Shaugnessy
Non-Public Arbitrator

Signature Date

6/10/04
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John C. DeMoss, Esq.
Public Arbitrator, Presiding Chair

Signature Date

John D. Campion
Public Arbitrator

Signature Date


Gerald J. Shaugnessy
Non-Public Arbitrator

6/8/04
Signature Date

6/10/04
Date of Service (NASD use only)