

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Henry F. and Frances Harner

92-02096

Name of Respondents

F. N. Wolf & Company, Inc.
Clayton R. Bugg

REPRESENTATION

Claimant Henry F. and Frances Harner ("Claimants") were represented by Ian R. D. Williams, Esq. of the law firm of Harrison & Johnston.

For Respondent F. N. Wolf & Company ("Wolf"): John S. Barr, Esq. of the law firm of Maloney, Yeatts & Barr.

Respondent Clayton R. Bugg ("Bugg") neither attended the hearings nor was he represented by counsel.

CASE INFORMATION

Statement of Claim filed: June 22, 1992

Claimants' Submission Agreement signed on: June 16, 1992

Statement of Answer filed by Wolf on: July 17, 1992

Wolf's Submission Agreement signed on: July 15, 1992

Respondents Bugg neither filed an answer nor signed a submission agreement.

HEARING INFORMATION

Hearing Date/Session: April 1, 1993 - two sessions

April 2, 1993 - one session

May 3, 1993 - two sessions

May 4, 1993 - one session

Hearing Location: NASD Executive Offices, Washington, D.C.

CASE SUMMARY

Claimants alleged, among other things, that Respondent Bugg proposed that the Claimants sell off B.T. Telecom stock for \$54,000 but subsequently learned that the sale had not been executed. Claimant alleged that shortly thereafter Respondent Bugg informed Claimants that the B.T. Telecom stock could be sold for \$74,000 - to which Claimants agreed and that the proceeds from such sale would be applied towards the purchase of Keystone Camera Product stock and Noxso Corporation stock. Claimant alleged that Respondent Bugg requested a check from the Claimants in the amount of \$73,376.25 to cover the purchases notwithstanding the

proposed sale of B. T. Telecom stock and that such proceeds from the B.T. Sale would be wired from Respondent Wolf. Claimants also alleged that it ordered Respondent Bugg to sell all of Claimants remaining stocks which Claimants alleged that Bugg agreed to do at certain stated and defined prices. Claimants alleged that upon receipt of certificates of stock that Respondent Bugg was suppose to have sold, Claimants were informed by Bugg to seek a local broker to carry out the sale of such stock and that any losses sustained would be covered by Respondent Wolf. Claimant stated that these stocks were sold by Scott & Stringfellow and Wolf for a total of \$190,418.75. Claimants further alleged that Bugg tendered two personal checks which were later returned for insufficient funds. Claimants alleged that Respondents breached their contract with the Claimants. Claimants alleged that Respondents negligently handled Claimants' account. Claimants alleged that Respondents breach their fiduciary duties that they owed to Claimants. Claimants alleged that Respondents committed common law fraud, State Securities Fraud and Federal Securities Fraud. Claimants alleged that Wolf failed to properly supervise Bugg as well as their account.

Wolf maintained that it properly handled Claimants' account at all times and that Wolf categorically denied all allegations of wrongdoing. Wolf maintained that the two checks tendered by Bugg to Claimants were for personal obligations and were not related to Claimants' account maintained at Wolf nor were the checks meant to cover any losses Claimants sustained in connection with their account. Wolf maintained, that in any event, the total damages incurred by Claimants was the difference between the amount actually realized upon the sale of the subject securities as compared to the amount that Claimants would have realized had the sale been executed on the dates directed by Claimant Mr. Harner.

Respondent Bugg did not answer Claimants' allegations.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$103,583.05, plus interest from April 3, 1989 and punitive damages in the amount of \$500,000

Wolf requested that Claimants' claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

The Panel determined that although Respondent Bugg did not attend the hearing, did not submit an answer and did not sign a submission agreement, that pursuant to the bylaws of the NASD, Bugg is bound by the rulings and determinations of the Panel.

The Panel found that Respondent Bugg did received notices of Claimants' claim against him and that Bugg received and signed for five certified mail letters from the NASD (copies of certified mail letters and receipts are attached as Exhibit A to this award).

AWARD

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

1. Respondents Wolf and Bugg are jointly and severally liable to Claimants and shall pay to Claimants the sum of THIRTEEN THOUSAND AND 00/100 DOLLARS (\$13,000); inclusive of interest.
2. That Claimants claim for punitive damages is denied in its entirety.
3. That the parties shall bear their respective costs, including attorneys fees, expert fees and other expenses, other than those specifically provided for herein.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure ("Code"), the following forum fees are assessed:

6 hearing sessions at \$1000 per session = \$6,000

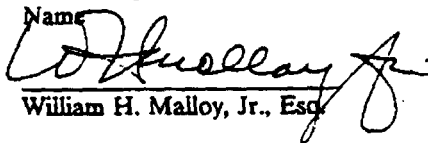
Pursuant to Section 43(c) of the Code, the NASD shall retain the hearing session deposit of \$1,000 previously filed by Claimants.

Respondents are jointly and severally assessed forum fees in the amount of \$6,000 and are directed to pay the NASD the sum of \$5,000 and to reimburse to Claimants \$1,000 for their previously filed hearing session deposit.


Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator's Signature

Name


William H. Malloy, Jr., Esq.

Public/Industry



Date of Decision: May 20th, 1993

1. Respondents Wolf and Bugg are jointly and severally liable to Claimants and shall pay to Claimants the sum of THIRTEEN THOUSAND AND 00/100 DOLLARS (\$13,000); inclusive of interest.
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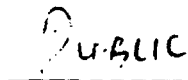
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Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator's Signature
Name


Marvin Elster, Esq.

Public/Industry


PUBLIC

Date of Decision: May 20th, 1993

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Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator's Signature
Name

Public/Industry

John W. Rader, Sr.
John W. Rader, Sr.

Industry

Date of Decision: May 20th, 1993



Arbitration

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

March 4, 1993

Clayton R. Bugg
107 Ballengee Street
Hinton, WV 22951

Subject: NASD Arbitration Number 92-02096
Henry F. and Frances E. Hamer, vs. F.N. Wolf & Co., Inc. and Clayton R. Bugg

Dear Mr. Bugg:

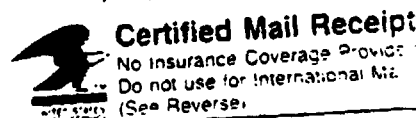
Enclosed is an advance sheet setting forth the date, time and location of the upcoming arbitration hearing. This advance sheet identifies the participants in this proceeding and contains the names and affiliations of the arbitrators. Also enclosed is biographical information about the arbitrator(s). The appointment of the arbitrator(s) and the setting of the time, date and location of the hearing have been made in accordance with the NASD Code of Arbitration Procedure. A document explaining the procedure to be followed at the hearing is also enclosed.

The parties and counsel are cautioned that no communication with the arbitrators pertaining to this proceeding is permitted except through the Arbitration Department.

If any party, counsel or representative believes that an arbitrator should be disqualified for any cause, please contact me immediately at 202-728-8958.

The parties or their counsel should prepare their materials for their presentation to assure the availability of witnesses and evidence during the hearing. Any questions concerning subpoenas

P 836 389 336



SENDER: <ul style="list-style-type: none">• Complete items 1 and/or 2 for additional services.• Complete items 3, and 4a & b.• Print your name and address on the reverse of this form so that we can return this card to you.• Attach this form to the front of the mailpiece, or on the back if space does not permit.• Write "Return Receipt Requested" on the mailpiece below the article number.• The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.		I also wish to receive the following services (for an extra fee): <ul style="list-style-type: none">1. <input type="checkbox"/> Addressee's Address2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: Mr. Clayton R. Bugg 107 Ballengee Street Hinton, WV 22951		4a. Article Number P 836 389 336	
4b. Service Type <ul style="list-style-type: none"><input type="checkbox"/> Registered<input checked="" type="checkbox"/> Certified<input type="checkbox"/> Express Mail		<input type="checkbox"/> Insured <input type="checkbox"/> COD <input type="checkbox"/> Return Receipt for Merchandise	
5. Signature (Addressee) <i>Clayton Bugg</i>		7. Date of Delivery 3-12-93	
6. Signature (Agent)		8. Addressee's Address (Only if requested and fee is paid)	

Mr. Clayton R. Bugg	
Postage \$	
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date & Address of Delivery	
TOTAL Postage & Fees \$	
Postmaster's Date	

Turn 3800 June 1990

3-4-93



Arbitration

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

March 4, 1993

Clayton R. Bugg
107 Ballengee Street
Hinton, WV 22951

Subject: NASD Arbitration Number 92-02096
Henry F. and Frances E. Harner, vs. F.N. Wolf & Co., Inc. and Clayton R.
Bugg

Dear Mr. Bugg:

Enclosed is an advance sheet setting forth the date, time and location of the upcoming arbitration hearing. This advance sheet identifies the participants in this proceeding and contains the names and affiliations of the arbitrators. Also enclosed is biographical information about the arbitrator(s). The appointment of the arbitrator(s) and the setting of the time, date and location of the hearing have been made in accordance with the NASD Code of Arbitration Procedure. A document explaining the procedure to be followed at the hearing is also enclosed.

The parties and counsel are cautioned that no communication with the arbitrators pertaining to this proceeding is permitted except through the Arbitration Department.

If any party, counsel or representative believes that an arbitrator should be disqualified for any cause, please contact me immediately at 202-728-8958.

The parties or their counsel should prepare their materials before the hearing and prearrange their presentation to assure the availability of witnesses and evidence to avoid unnecessary delays during the hearing. Any questions concerning subpoenas or orders of production should be directed to me immediately.

All postponement requests are decided by the arbitrators. Even consensual requests for postponement must be submitted to the panel for decision. If you make a postponement request, do not release your witnesses until you are advised of the panel's decision. All postponement requests must be in writing and must set forth a specific emergency or court conflict. In the event of a court conflict, you must provide an Affidavit of Engagement, which includes: case name, docket number, presiding judge and court clerk's telephone number.

All postponement requests must also contain a list of at least four alternative hearing dates agreed to by all parties. The party requesting the postponement should contact the other parties or their representatives to determine at least four alternative dates when all parties and their witnesses will be available. If the arbitrators grant the postponement, they will attempt to use

Received
3/12/93

one of the agreed dates to reschedule the hearing.

All postponement requests must be accompanied by a check for the appropriate amount pursuant to Section 30(b) of the Code of Arbitration Procedure. If the request is denied, the fee will be returned. If the request is granted, the arbitrator(s) may assess the postponement fee in the final decision.

If you intend to present any documents as exhibits at the hearing, you should bring sufficient copies for the arbitrators as well as a copy for the NASD staff person and for each opposing party. To expedite the hearing, the parties should stipulate to the admission of exhibits prior to the hearing. Arrange all exhibits in numerical order, organize them for quick and efficient retrieval and compile a list that identifies each exhibit. We urge the parties to reduce the number of exhibits presented during the hearing by eliminating duplicate documents. Your compliance with these requests will minimize delay during the hearing. In addition, please refer to Section 32(c) of the Code concerning the required Pre-Hearing Exchange of Documents and Witness List. Parties should not send copies to the NASD of the documents exchanged pursuant to section 32(c).

Documentary Evidence or Hearing briefs will not be forwarded to the arbitrator(s) absent agreement of the parties and prior approval of the panel.

Any Claims, Answers, Counterclaims, Cross-Claims, and/or Third Party Claims previously submitted by a party have been forwarded to the panel and will be marked at the hearing as Arbitrators' Exhibit 1. Any attachments to those pleadings will be considered part of the Arbitrator(s)' Exhibit 1 and should not be offered as additional exhibits at the hearing. Attached is a list of the documents which will be included in Arbitrator(s)' Exhibit 1.

At the hearing, parties and/or counsel will be permitted to make an opening statement and present witnesses and proof in support of their position. Any party or witness testifying during the course of the proceeding shall be subject to examination by the other party, his counsel or representative. A closing statement will be permitted at the conclusion of the proceeding.

Any questions concerning this hearing should be promptly directed to the NASD Arbitration Department.

Very truly yours,

Shari L. Sturm, Esq.
Senior Attorney
202-728-8958
SLS:JMS:LC19A
Enclosures

Arbitration

**National Association of
Securities Dealers, Inc.**
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

December 14, 1992

Clayton R. Bugg
107 Ballengee Street
Hinton, WV 22951

Subject: NASD Arbitration Number 92-02096
Henry F. and Frances E. Harner, vs. F.N. Wolf & Co., Inc. and Clayton R. Bugg

Dear Mr. Bugg:

This letter is to inform you that the hearing in this matter has been rescheduled to April 1, 1993 at 09:30 AM in Washington. The location of the hearing will be provided at a later date. Additional hearing session(s) are scheduled on: April 2, 1993.

Very truly yours,

By Mildred C. Etheridge
Marie E. Gray

Marie E. Gray
Legal Assistant
212-858-4428

SENDER: <ul style="list-style-type: none"> • Complete items 1 and/or 2 for additional services. • Complete items 3, and 4a & b. • Print your name and address on the reverse of this form so that we can return this card to you. • Attach this form to the front of the mailpiece, or on the back if space does not permit. • Write "Return Receipt Requested" on the mailpiece below the article number. • The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery. 		I also wish to receive the following services (for an extra fee): <ul style="list-style-type: none"> 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.						
3. Article Addressed to: Clayton R. Bugg 107 Ballinger St. Newton NY 12451	4a. Article Number P232721716							
	4b. Service Type <table border="0"> <tr> <td><input type="checkbox"/> Registered</td> <td><input type="checkbox"/> Insured</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified</td> <td><input type="checkbox"/> COD</td> </tr> <tr> <td><input type="checkbox"/> Express Mail</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> </table>		<input type="checkbox"/> Registered	<input type="checkbox"/> Insured	<input checked="" type="checkbox"/> Certified	<input type="checkbox"/> COD	<input type="checkbox"/> Express Mail	<input type="checkbox"/> Return Receipt for Merchandise
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	7. Date of Delivery 12-21-92							
5. Signature (Addressee) Clayton R. Bugg	8. Addressee's Address (Only if requested and fee is paid)							
6. Signature (Agent)								

P 232 721 71b

**Receipt for
Certified Mail**

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NASD

Arbitration

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

September 28, 1992

CERTIFIED MAIL

Clayton R. Bugg
107 Ballengee Street
Hinton, WV 22951

Subject: NASD Arbitration Number 92-02096
Henry F. and Frances E. Harner, vs. F.N. Wolf & Co., Inc. and
Clayton R. Bugg

Dear Mr. Bugg:

The NASD Arbitration has not received a copy of your Statement of Answer in the above captioned case as required by Section 25(b) of the NASD Code of Arbitration Procedure. This case will continue to be processed with or without your Statement of Answer. You should be aware that, notwithstanding your failure to answer, an Award may, in the arbitrators' discretion, be rendered against you.

If you require a second copy of the Statement of Claim previously served on you or if you have any questions concerning this matter, please contact Marie

P 407 643 623



**Receipt for
Certified Mail**

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Do not use for International Mail
(See Reverse)

Sender's Name <i>Clayton R. Bugg</i>	
Street and No.	
P.O. State and ZIP Code	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date <i>9/28/92</i>	

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

3. Article Addressed to:

Clayton R. Bugg
107 Ballengee Street
Hinton, WV 22951

5. Signature (Addressee)

Clayton R. Bugg

6. Signature (Agent)

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

4a. Article Number

P407-643-623

4b. Service Type

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

10-2-92

8. Addressee's Address (Only if requested and fee is paid)

NASD MAIL

Arbitration

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

July 21, 1992

Clayton R. Bugg
107 Ballengee Street
Hinton, WV 22951

Subject: NASD Case Number 92-02096
Henry F. and Frances E. Harner, vs. F.N. Wolf & Co., Inc. and
Clayton R. Bugg

Dear Mr. Bugg:

On July 10, 1992 this office attempted to serve upon you the Statement of Claim in the above-captioned matter. The packet containing that Statement of Claim was returned as:

- () unclaimed,
(☒) forwarding order expired,
() refused,
() moved, left no address.

We are once again serving the Statement of Claim upon you. Please refer to the enclosed cover letter and respond accordingly.

Very truly yours,

P 006 409 947



Receipt for
Certified Mail

No Insurance Coverage Provided

ENVELOPE: Complete items 1 and/or 2 for additional services. Complete items 3, and 4a & b. Print your name and address on the reverse of this form so that we can return this card to you. Attach this form to the front of the mailpiece or on the back if space is not permitted. Mark "Return Receipt Requested" on the mailpiece below the article number. The Return Receipt Fee will provide you the signature of the person delivered and the date of delivery.		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
1. Article Addressed to: Clayton R. Bugg 107 Ballengee Street Hinton, WV 22951		4a. Article Number P 006 409 947	
Signature (Addressee) Signature (Agent) <i>Henry F. Bugg</i>		4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise 5. Date of Delivery 7-29-92	
Form 3811, November 1990		6. Addressee's Address (Only if requested and fee is paid)	

2 delayed b/c of
incorrect
zip code

Arbitration

**National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389**

October 26, 1992

Clayton R. Bugg
107 Ballengee Street
Hinton, WV 22951

Subject: NASD Arbitration Number 92-02096
Henry F. and Frances E. Harner, vs. F.N. Wolf & Co., Inc. and
Clayton R. Bugg

Dear Mr. Bugg:

This letter is to inform you that the hearing in this matter has been rescheduled to June 10, 1993 at 09:30 AM in Washington. The location of the hearing will be provided at a later date. Additional hearing session(s) are scheduled on: June 11, 1993.

Very truly yours,

By *Mildred C. Etheridge*
 Marie E. Gray
 Legal Assistant
 212-858-4438

MEG:MCE:LC35B.NEW

SENDER: • Complete items 1 and/or 2 for additional services. • Complete items 3, and 4a & b. • Print your name and address on the reverse of this form so that we can return this card to you. • Attach this form to the front of the mailpiece, or on the back if space does not permit. • Write "Return Receipt Requested" on the mailpiece below the article number. • The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.
3. Article Addressed to: Clayton R. Bugg 107 Baker St Hinton WV 25951		4a. Article Number P23-721681
		4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
5. Signature (Addressee) [Signature]		7. Date of Delivery 11-10-92
6. Signature (Sender) [Signature]		8. Addressee's Address (Only if requested and fee is paid)

[illegible]

**Receipt for
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No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

199 721 681