

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Kesia D. Taylor

92-02897

Name of Respondent

Oxford Capital Securities, Inc.
Garland Mitchell

REPRESENTATION

For Claimant Kesia D. Taylor: she appeared pro se.

For Respondent Garland Mitchell ("Mitchell"): statement of answer was submitted pro se.

For Respondent Oxford Capital Securities, Inc. ("Oxford"): no representative appeared for Oxford at the hearing.

CASE INFORMATION

--- Statement of Claim filed: September 9, 1992. --

Claimant's Submission Agreement signed on: September 3, 1992.

As required, pursuant to Section 25 of the Code of Arbitration, ("Code") Respondent Oxford did not file a statement of answer nor execute a Submission Agreement.

Statement of Answer filed by Respondent, Mitchell on: December 9, 1992.

Respondent, Mitchell's Submission Agreement signed on: December 3, 1992.

HEARING INFORMATION

Hearing Date/Sessions: May 10, 1993/Two Sessions

Hearing Location: NASD, New York, NY.

CASE SUMMARY

Claimant, alleged that on or about July 1989 she was approached by Respondent Mitchell, employed as a broker with Respondent Oxford Capital, to purchase a certificate of deposit ("CD"). Claimant also alleged that on August 31, 1989 she invested \$10,000 in a one year CD, and on October 2, 1989 invested an additional \$3,000, and subsequently rolled the CD over the next two years. Claimant further alleged that during the three years in which she had an account with Respondents, there appeared numerous discrepancies in her account statements and, while most discrepancies were corrected, her April 1992 statement remained unamended with an incorrect dividend amount. Finally, Claimant alleged that, although Respondent Oxford has closed its offices without notifying her and Respondent Mitchell is no longer employed by Oxford, she would like to liquidate the value of her CD that matured August 1, 1992 and Respondents owe her the value of her investment with interest.

Respondent Mitchell admitted to being employed as a broker with Respondent Oxford Capital from February 1989 until April 1992; that he opened an account and acted as a broker for Claimant; and that Claimant invested \$13,000 in said account. However, Mitchell maintained that at all times he merely acted in a broker's capacity and did as he was instructed by his employer, Respondent Oxford.

Respondent Oxford did not submit a Statement of Answer.

OTHER ISSUES HEARD AND DECIDED

Neither Mitchell nor Oxford attended the May 10, 1993 hearing. On May 7, 1993, Mitchell called the National Association of Securities Dealers, Inc. staff and left a message indicating that there was a death in his family and his attendance at the hearing was impossible.

The National Association of Securities Dealers, Inc. staff attempted to contact Mitchell by telephone prior to the hearing date and again on the morning of May 10, 1993 but was unable to do so. Correspondence sent certified and regular mail, addressed to Mitchell and to Oxford at the addresses filed by Mitchell and Oxford with the National Association of Securities Dealers Inc.'s Central Registration Depository were read into the record at the hearing. Pursuant to Sections 25 and 29 of the Code of Arbitration Procedure the arbitrators determined that Mitchell and Oxford were properly notified of the hearing place, date and time and proceeded with the

hearing in their absence.

RELIEF REQUESTED

Claimant requested actual damages in the amount of \$18,024.16, plus interest of 10% compounded annually from the date of her investment until the CD's maturity date of August 1, 1992, plus costs of \$500.

Respondent Oxford Capital Securities did not submit a formal plea of relief.

Respondent Garland Mitchell maintained that he is not responsible for Claimant's losses.

AWARD

After considering the pleading, 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. Respondents Oxford Capital Securities and Garland Mitchell are hereby liable jointly and severally and shall pay to Claimant the sum of \$18,384.64 plus interest at the legal rate on the amount outstanding from May 10, 1993 until the award is paid in full.
2. Respondents Oxford Capital Securities and Garland Mitchell are hereby liable jointly and severally and shall pay to Claimant the sum of \$500.00 which represents a \$100.00 non-refunded filing fee and a \$400.00 hearing session deposit.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

\$100.00 non-refundable filing fee.

2 Sessions X \$400.00 = \$800.00.

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Respondent Oxford Capital Securities be and hereby is jointly and severally liable and shall pay to the NASD the sum of \$400.00 and reimburse Claimant \$500.00 to represent forum fees.

The NASD shall retain the claim filing fee previously deposited by the Claimant.

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

Arbitrator Signature
Name

Public/Industry

Romeo Barros
Romeo Barros, Esq.

Public

Date of Decision: September 8, 1993

STATE OF *New York*
COUNTY OF *New York*

S.S.:

On this *8th* day of *September*, 1993, before me personally appeared **Romeo J. Barros, Esq.** known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same

Mark O. Glut

MARK O. GLUT
Notary Public, State of New York
No. 4885193
Qualified in Queens County
Commission Expires April 20, 19*94*