

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

A. Louis and Alice W. O'Connor

93-00517

Name of Respondents

American Bond Group, Inc.
Aleksandr Shvarts

REPRESENTATION

For Claimants, A. Louis and Alice W. O'Connor ("the O'Connors"): pro se.

For Respondents, American Bond Group, Inc. ("ABG") and Aleksandr Shvarts ("Shvarts"): pro se (see "Other Issues").

CASE INFORMATION

Statement of Claim filed: 2/10/93.

Claimants' Submission Agreement signed on: 2/3/93.

Respondents, ABG and Shvarts, did not submit a Statement of Answer and executed Submission Agreements as required by Sections 12 and 25 of the Code of Arbitration Procedure (see "Other Issues")

HEARING INFORMATION

Hearing Date/Sessions: 11/18/93/One (1) session.

Hearing Location: Fort Lauderdale, Florida.

CASE SUMMARY

Claimants alleged that Respondent, Shvarts, desperate to protect his failing business and his multi-million-dollar position in the class A warrants of Fonic, Inc., "Fonic") aggressively and deceptively pushed the sale of Fonic's stock, even

to specifically inappropriate accounts such as Claimants, and then used every trick possible to delay or avoid those shares ever coming back onto the market to reduce the value of his warrants. Claimants further alleged that the foregoing pattern of chicanery effectively transferred the normal choice of "buy, sell, or hold" from the Claimants to the Respondents, who became, for all practical purposes, the De Facto owners of the shares of which Claimants were merely the legal owners. Claimants contended that Respondents' rigorous policy of blocking the sale of Claimants' 4,300 shares of Fonic, even when its value was \$60,000.00, together with the other deceptive, and probably fraudulent practices have caused Claimants substantial financial losses.

Respondents did not submit a Statement of Answer (see "Other Issues").

RELIEF REQUESTED

Claimants requested an Award of damages in the amount of \$33,000.00 for partial recovery on their Fonic shares, \$15,000.00 in punitive damages and \$2,000.00 expenses for a total Award of \$50,000.00.

OTHER ISSUES CONSIDERED & DECIDED

Respondents, ABG and Shvarts, did not submit executed Submission Agreements nor a Statement of Answer nor did they appear at the hearing. Jurisdiction exists pursuant to Section 12 of the NASD Code of Arbitration Procedure and pursuant to the Form U-4 executed by Shvarts. Therefore, this panel finds that Shvarts and ABG were required to sign Submission Agreements and that they were required to file a Statement of Answer pursuant to Section 25 of the Code of Arbitration Procedure, ABG being an NASD member firm and Griffin being a person associated with an NASD member firm at the time this controversy arose.

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. Respondents, ABG and Shvarts, are found liable, jointly and severally, and shall pay to the Claimants the amount of \$33,004.89 plus pre-judgment interest at 12% per annum from November 13, 1992 to the date of this Award.
2. Respondents, ABG and Shvarts, are found liable, jointly and severally, and shall pay to the Claimants costs in the amount of \$2,000.00.
3. Respondents, ABG and Shvarts, are found liable, jointly and severally, and shall pay to the Claimants the further amount of \$15,000.00 for punitive damages due to the panel's finding that Respondents' behavior was egregious in this case.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the Panel has assessed forum fees of \$400.00 (one hearing session X \$400.00).

1. Respondents, ABG and Shvarts are hereby jointly and severally assessed forum fees in the amount of \$400.00 to be paid directly to Claimants.
2. The NASD shall retain the non-refundable filing fee of \$120.00 paid by the Claimants.

ARBITRATION PANEL

Concurring Arbitrators' Signatures


Seth L. Finkel, Esq.


Ronald W. Cornew


Jack L. Ratzkin, Esq.

Date of Decision: 2/3/94