

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of Arbitration Between

Charles O. Hampton
Claimant,

vs.

Case # 93-05331

American Bond Group, Inc.,
Alexander Shvarts,
Otra Clearing Inc., &
J.B. Oxford & Co.
Respondents.

REPRESENTATION

For Claimant, Charles Hampton, William C Morris, Esq. of the firm Morris & Morris, North Carolina and Andrew A. Strauss, Esq. of the firm Strauss & Jones, North Carolina.

For Respondent, American Bond Group, Inc., and Alexander Shvarts Michael R. Koblenz, Esq. of the firm Mound, Cotton & Wollan, New York, N.Y.

Respondents, Otra Clearing Inc. and J.B. Oxford & Co, did not appear at the hearing.

CASE INFORMATION

Statement of Claim filed: December 17, 1993

Claimant's Submission Agreement signed on: December 16, 1993

Respondent's, Alexander Shvarts and American Bond Group, Inc., Joint Statement of Answer filed: January 9, 1995

NASD Award #93-05331

Respondent J.B. Oxford & Co.'s Submission Agreement signed on: Respondent J.B. Oxford & Co. did not file a Submission Agreement as required pursuant to Section 25(b)(1) of the NASD Code of Arbitration Procedure.

Hearing Location: Radisson Plaza
421 South Salisbury Street
Raleigh, North Carolina 27601

CASE SUMMARY

Claimant, Charles O. Hampton ("Mr. Hampton") alleged that the Respondents made knowing and/or reckless misrepresentations in connection with the Claimant's purchase of 18,000 shares of Fonic, Inc. common stock. Specifically, the Claimant alleged that Respondent, Alexander Shvarts ("Mr. Shvarts"), stated that he would inform Claimant of an appropriate time to sell the shares of Fonic, Inc. and that he would sell the Claimant's holdings if the shares of Fonic, Inc. dropped below \$7.00 per share, however; Mr. Shvarts did not do so. Claimant also alleged that the Respondents knowingly and/or recklessly made omissions of material fact regarding Fonic, Inc. common stock. The Claimant maintained that these material misrepresentations and omissions by the Respondents were violations of Section 10(b) and 10b-5 of the Securities Exchange Act of 1934.

Claimant alleged that Respondents made unsuitable investments in intentional or reckless disregard of the Claimant's needs and objectives, thereby violating Section 10(b) and 10b-5 of the Securities Exchange Act of 1934. Claimant alleged that American Bond Group, Inc., as the employer of Mr. Shvarts, knew of or recklessly disregarded the conduct of Mr. Shvarts and rendered substantial assistance to him in committing these alleged violations. Claimant alleged that American Bond Group, Inc., failed to act in good faith and directly or indirectly induced the acts of Mr. Shvarts by failing to maintain internal controls over Mr. Shvarts. Claimant alleged that American Bond Group, Inc., was liable for furthering the Section 10(b) violations of Mr. Shvarts. Furthermore, Claimant alleged that the above claims are violations of the North Carolina securities laws. (N.C. Gen. Stat. Section 78A et. seq.)

Claimant alleged that Respondents breached their fiduciary duty owed to the Claimant and their duty to deal fairly with the Claimant and excessively traded the Claimant's account thereby violating Section 10(b) and Rules 15(c)(1) and 15(c)(2) of the Securities Exchange Act of 1934.

In addition, Claimant alleged that the Respondents schemed to defraud Claimant, and that in furtherance of their scheme, Respondents induced Claimant to engage in numerous purchases of Fonic, Inc. stock so as to artificially stimulate the value of the stock held by the claimant. Claimant maintained that these actions constituted common law fraud under North Carolina law, and were unfair or deceptive practices under N.C. Gen. Stat. Section 75-1.1.

Finally, Claimant alleged that, in failing to execute Claimant's sell orders, the Respondents disregarded the duty to use reasonable care in handling the Claimant's account, including but not limited to failing to conform to the standards set forth in the rules of the NASD.

Respondents maintained that the Claimant did not make it known that his financial goals were to become involved in safe and secure investments. Respondent further maintained that Claimant informed Respondents that he wanted to participate in investments that would generate quick and substantial returns and that the new account form signed by Mr. Hampton designated his

investment goals as speculation and risk.

Respondents maintained that Claimant was notified of the underwriting relationship; was given a prospectus used in the offering of Fonic, Inc. and was informed of the speculative nature of Fonic, Inc. common stock.

Respondents further maintained that the Claimant was advised to liquidate some of his position in Fonic, Inc. stock and that the Claimant chose not to follow this advice. In addition, Respondents alleged that Claimant traded on margin after being made aware of the high risk involved in such trading.

Finally, Respondents alleged that Claimant experienced growth in the value of his investment of roughly 397% in less than one year and acted properly and conducted transactions on Claimant's behalf in the most prudent manner possible.

RELIEF REQUESTED

Claimant requested that he be placed in the position that he would have been in if holdings in Fonic, Inc. common stock had been sold at \$7.00 per share. In addition, the Claimant seeks out of pocket losses of \$18,000; treble damages, interest, costs and attorneys fees under N.C. Gen. Stat. Section 75-1.1; and punitive damages.

Respondents requested that all claims be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

After filing the initial Statement of Claim with the NASD, Claimant requested leave of the panel to amend his Statement of Claim to add Otra Clearing Corp., and its successor in interest J.B. Oxford & Co., as respondents in this arbitration. Leave was granted to allow the Claimant to amend the Statement of Claim.

The arbitration panel made the following rulings concerning Respondents, Otra Clearing Corp. and J. B. Oxford & Co., who did not file a Statement of Answer and a Submission Agreement, and who also failed to appear at the hearings conducted in this matter:

1. Pursuant to Section 1 of the NASD Code of Arbitration Procedure, the panel found subject matter jurisdiction over this entire controversy.
2. The panel found that the Respondents, Otra Clearing Corp. and J.B. Oxford & Co., were members of the NASD at the time the controversy arose. Consequently, the panel found personal jurisdiction over the Respondents, Otra

Clearing Corp. and J.B. Oxford & Co., pursuant to Section 12 of the NASD Code of Arbitration Procedure.

3. In view of (2) above, the panel found that Respondents, Otra Clearing Corp. and J.B. Oxford & Co., were required to file with the NASD a statement of Answer and a properly executed Submission Agreement pursuant to Section 25(b) of the NASD Code of Arbitration Procedure. In this regard, the panel found that the Statement of Claim was properly served upon the Respondents, Otra Clearing Corp. and J.B. Oxford & Co., by Claimant, via certified mail, pursuant to Section 25(a) of the Code.
4. In addition, in accordance with Sections 21, 26 and 29 of the NASD Code of Arbitration Procedure, the panel found that the NASD provided Respondents, Otra Clearing Corp. and J.B. Oxford & Co., with "due notice" of the hearing conducted in this matter by regular and certified mail. The panel, therefore, determined to proceed with the hearing without Respondents, Otra Clearing Corp. and J.B. Oxford & Co., whose absence was unexcused.

The panel determined that J.B. Oxford & Co. was the successor to Otra Clearing Inc., and that, based upon Claimant's Exhibit No. 29 produced at the hearing, that J.B. Oxford & Co. was a subsidiary of RKS Financial Group, Inc., the parent company of Reynolds Kendrick Stratton, Inc.

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.

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, Otra Clearing, Inc., J.B. Oxford & Co, and/or their successors are hereby liable to, and ordered to pay to Claimant, the sum of \$19,875.00 interest excluded;
2. All claims against Respondent, Alexander Shvarts, are hereby denied;
3. Claimants request for treble damages, attorneys fees and costs are hereby denied;

4. Claimants request for punitive damages are hereby denied, and;
5. It is hereby ordered that any debit balance in Claimants margin account is null and void and no action of collection shall be undertaken by any Respondent or their assigns.
6. Respondents are liable jointly and severally and shall pay to Claimant the sum of \$750 to reimburse Claimant for the hearing session deposit paid by Claimant to the NASD.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the arbitrators have assessed the following forum fees:

Hearing Sessions: January 10, 1995 - 2 Sessions x \$750.00 = \$1500.00
 January 11, 1995 - 2 Sessions x \$750.00 = \$1500.00

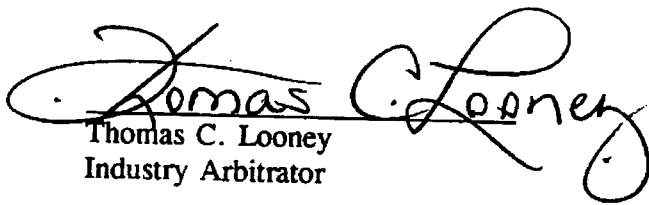
1. Respondents are assessed the sum of \$3,000 which represents the total forum fees due, less the hearing session deposit paid by Claimant of \$750 leaving \$2,250 due. Respondents are liable jointly and severally and shall pay to the NASD the sum of \$2,250.

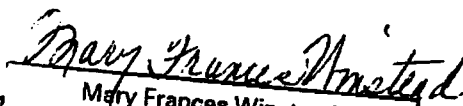
Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS' SIGNATURES

James Edward Neal
Public Chairperson


Robert P. Porter
Public Arbitrator


Thomas C. Looney
Industry Arbitrator


Mary Frances Winstead
Notary Public
Nash County, N.C.
My Commission Expires
April 25, 1999

Date of decision: May 22, 1995

ARBITRATORS' SIGNATURES


James Edward Neal
Public Chairperson

Robert P. Porter
Public Arbitrator

Thomas C. Looney
Industry Arbitrator

Date of decision: _____ May 22, 1995

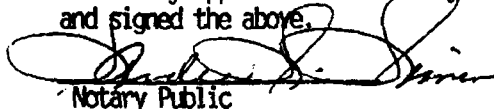
ARBITRATORS' SIGNATURES

James Edward Neal
Public Chairperson



Robert P. Porter
Public Arbitrator

Personally appeared this 15th day of May, 1995, Robert P. Porter
and signed the above.



Notary Public

My Comm. Exp. Date: February 13, 1998

Thomas C. Looney
Industry Arbitrator

Date of decision: May 22, 1995

NORTH CAROLINA

Durham County

I, CAROLE S. BEAYER, a Notary Public for said County and State, do hereby certify that JAMES EDWARD NEAL personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the 15th day of MAY, 1995.

(Official Seal)

Carole S. Beaver
Notary Public

My commission expires APRIL 16, 1997.