

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

The Estate of John Claire Converse

94-04727

Name of Respondent

Robert (Elemer) Sexton

REPRESENTATION

For Claimant: The Estate of John Claire Converse ("Converse"): J.M. Guarch, Jr., Esq. of Aran Correa & Guarch, P.A. of Coral Gables, Florida.

For Respondent: Robert (Elmer) Sexton ("Sexton"): Leo McShane, Esq. of Miami, Florida.
Respondent/Counterclaimant Sexton appeared pro se for counterclaim.

CASE INFORMATION

Statement of Claim filed: November 9, 1994.

Claimant's Submission Agreement signed on: November 7, 1994.

Statement of Answer filed by Respondent, Sexton, on February 24, 1995.

Respondent, Sexton's, Submission Agreement signed on: February 20, 1995.

HEARING INFORMATION

On August 14, 15, and 16, 1995 in Fort Lauderdale, Florida, hearings lasting 5 sessions were conducted.

CASE SUMMARY

Statement of Claim against Respondent, Sexton, seeks to void a transfer of stock through Stock Powers made by the deceased John Converse. Allegations asserted by the claimant include Fraud, and undue influence. The stocks in question were shares of Acclaim Entertainment, Inc. and Windmere Corporation.

Respondent, Sexton, alleges in his Answer, that his good friend Converse, now deceased, legally transferred to Sexton stock with an original value of \$69,897. Sexton in his pro se counterclaim seeks the original value of the stock plus legal pre-judgement interest. In the counterclaim, Sexton charged the Estate of willful wrongdoing. Sexton alleged that the Personal Representative contravened the wishes of the deceased.

RELIEF REQUESTED

The Claimant requests that the Panel find the attempted transfer fraudulent and award it punitive damages as deemed appropriate together with attorney's fees and costs spent by the Claimant. If not found to be a fraud, the Claimant requests and award invalidating the attempted transfer of stock through the use of stock powers and award the Claimant fees and costs.

Respondent request that the panel finds for the Respondent and finds the stock transfer as valid. Respondent/Counterclaimant requested \$69,897 plus pre judgement interest from November 21, 1991 in the amount of 12% per annum, treble damages, plus \$50 per day from November 21, 1991 to the day of settlement, and attorney fees.

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.

AWARD

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

1. The panel finds that the transfer of stock through the Stock Powers was invalid. The Respondent is not entitled to any of the stock at issue in this proceeding.
2. Respondent/Counterclaimant request for \$69,897 plus pre judgement interest from November 21, 1991 in the amount of 12% per annum, treble damages, plus \$50 per day from November 21, 1991 to the date of settlement, and attorney fees, has been denied.
3. The Claimant's request for punitive damages, costs and attorney's fees are hereby denied.

OTHER COSTS

Other than as provided below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding (including attorney fees).

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$3,000 (5 hearing sessions X \$600 = \$3,000).

Respondent, Sexton is hereby assessed \$3,000. \$600 payable directly to the Claimant, and \$2,400 payable directly to the National Association of Securities Dealers, Inc.

Respondent, Sexton, shall reimburse the Claimant \$250 for the non-refundable filing fee.

The N.A.S.D. shall retain the hearing session deposit of \$600 and the non-refundable filing fee of \$250 paid by Claimant.

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

Concurring Arbitrators' Signatures

Name

Public/Industry

/s/

Gustavus L. Pearthree

Industry

/s/

Amy D. Dickinson

Public

/s/

Lewis J. Levey, Esq.

Public

October 6, 1995

Date of Decision: _____