

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Shirley A. Robinson

NASD Arbitration
No. 95-00118

Name of Respondent(s)

Robert W. Kendrick
Reynolds Kendrick Stratton, Inc.

REPRESENTATION

For Claimant: John W. Barnes, Esq., San Francisco, California

For Respondent Robert W. Kendrick: Robert Friese, Esq., Shartsis,
Friese & Ginsburg, San Francisco, California

For Respondent Reynolds Kendrick Stratton, Inc.: Jeffrey S. Kob,
Esq., Miller Milove & Kob, San Diego, California

CASE INFORMATION

Statement of Claim filed: January 5, 1995

Claimant's Submission Agreement signed: January 4, 1995

Statement of Answer filed by Respondent Robert W. Kendrick: March
27, 1995

Answer, Affirmative Defenses and Motion to Dismiss of Reynolds
Kendrick Stratton, Inc. filed: August 28, 1995

Respondents' Submission Agreements signed as follows:

Robert W. Kendrick: January 31, 1995

Reynolds Kendrick Stratton, Inc.: August 16, 1995

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s):

February 15, 1996 (one session)
March 1, 1996 (one session)

Hearing Date(s)/Session(s): March 4, 1996 (two sessions)
 March 5, 1996 (two sessions)
 March 6, 1996 (two sessions)
 March 7, 1996 (three sessions)
 March 18, 1996 (two sessions)
 March 19, 1996 (two sessions)

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant alleged that she filed the above-captioned dispute on the grounds of fraud, misrepresentation, breach of fiduciary duty, unsuitability, and failure to supervise against Respondents. Claimant further alleged that she told Respondents Robert W. Kendrick (Kendrick) and Reynolds Kendrick Stratton, Inc. (RKS) that her investment objectives consisted of income, safety, and growth. Claimant also alleged the following claims with respect to her investments in various securities: 1) Section 10(b) of the Exchange Act, Fraud Section 20(a), Controlling Persons Liability; 2) Fraud and Deceit; 3) Breach of Fiduciary Duty; 4) Negligent Misrepresentation; 5) Gross Negligence; 6) Section 15(b)(4)(E) of the Exchange Act, Failure to Supervise; and 7) Breach of Covenant of Good Faith.

Respondent Kendrick denied Claimant's allegations of wrongdoing and alleged that he was advised by Claimant and her account representative, Ruth Sutherland at various times that Claimant had received over \$1.5 million dollars in her divorce settlement and that she wished to invest a portion of her capital in speculative and aggressive growth securities. Respondent Kendrick further alleged that Claimant and Ms. Sutherland together discussed and determined Claimant's specific investment decisions and the allocation of that portion of her capital to be invested by Ms. Sutherland. Respondent Kendrick also asserted affirmative defenses.

Respondent RKS denied Claimant's allegations of wrongdoing and alleged that the allegations contained in Claimant's Statement of Claim are conspicuously silent as to Claimant's dealings with her daughter-in-law, Ms. Sutherland and that the absence of any claim against Ms. Sutherland is striking. Respondent RKS further alleged that Claimant's allegations disclose that at no time during the two years she maintained her accounts with Respondent RKS, did Claimant question her account representative's judgment as to suitability or other issues; Claimant had sufficient business acumen to look after her divorce settlement proceeds for almost a year, between September 1991 and August 1992, being dates given by Claimant between her divorce and the transfer of her divorce proceeds to her account at RKS; Claimant alleged she already had an account with RKS valued at \$38,000.00; and if RKS had conducted a pattern of speculation, Claimant would not have had any confidence in RKS to handle her account with the new proceeds. RKS further alleged that Claimant had disclosed that she wished to invest a portion of her capital in speculative and aggressive growth securities; RKS and Ms. Sutherland together discussed and determined Claimant's specific investment decisions and the allocation of that portion of her capital to be invested; the pattern of investment reflects an investment strategy of trying to hit the next "superstock"; Claimant may also have maintained investment accounts with other firms, including A.G. Edwards, Merrill Lynch, and The Bank of Oklahoma; and that such activity reveals Claimant to be a sophisticated investor. RKS also asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested:

1. On all claims the precise amount to be determined at the hearing, but not less than \$524,808.00, representing the total of Claimant's out-of-pocket losses;
2. An order of the panel that any margin debt owing from Claimant to Respondents, as well as any accrued interest on that debt, is null and void;
3. On claims two, three, and five an award of exemplary or punitive damages in the amount of \$1,075,000.00;
4. Prejudgment and postjudgment interest at 10%; and
5. Such other relief as the panel may deem just and proper.

Respondent RKS requested:

1. Any and all claims against RKS be dismissed summarily;
2. Claimant shall take nothing as to RKS by Claimant's Statement of Claim;
3. Claimant reimburse RKS its costs, expenses and reasonable attorney's fees; and
4. Such other relief as the arbitrators deem just and proper.

Respondent Kendrick requested that any and all claims against him be dismissed and that he be reimbursed for costs, expenses, and reasonable attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On or about August 17, 1995, JB Oxford Holdings, Inc., through its counsel, advised the National Association of Securities Dealers, Inc. (NASD) that it is not a member of the NASD and would not voluntarily submit to the jurisdiction of the NASD.

The Claimant filed a Motion to Bar before the hearing which was denied by the panel.

At the hearing, JB Oxford & Company made a special appearance for the purpose of contesting the jurisdiction of the panel to issue an award for lack of jurisdiction because JB Oxford & Company had not been served, filed a response or signed a submission agreement. The panel ruled that JB Oxford & Company was not a party because the panel lacked jurisdiction.

The parties have agreed that the Award in this matter may be executed in either 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. Respondent Reynolds Kendrick Stratton, Inc. is solely liable for and shall pay to Claimant the sum of \$237,000.00.

2. Respondents Reynolds Kendrick Stratton, Inc. and Robert W. Kendrick are jointly and severally liable for and shall pay to Claimant the sum of \$159,000.00.

3. Respondent Reynolds Kendrick Stratton, Inc. is solely liable for and shall pay to Claimant the sum of \$250.00 as reimbursement for Claimant's filing fee.

4. All other claims by Claimant, including the claims for exemplary or punitive damages, are denied.

5. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

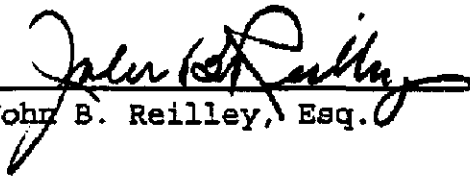
Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund Claimant's hearing session deposit in the amount of \$1,000.00. Forum fees are assessed against Reynolds Kendrick Stratton, Inc., solely, in the amount of \$13,600.00, calculated as follows: Two pre-hearing sessions times \$300.00/session plus thirteen hearing sessions times \$1,000.00/session.

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
John B. Reilley, Esq.	Public Arbitrator
Bruce T. Mitchell, Esq.	Public Arbitrator
George Stanley Guth	Industry Arbitrator

Concurring Arbitrators' Signatures



John B. Reilley, Esq.

Bruce T. Mitchell, Esq.

George Stanley Guth

Date of Decision: _____

Date served: 4/3/96

Concurring Arbitrators' Signatures

John B. Reilley, Esq.



Bruce T. Mitchell, Esq.

George Stanley Guth

Date of Decision: _____

Date served: 4/3/96

Concurring Arbitrators' Signatures

John B. Reilley, Esq.

Bruce T. Mitchell, Esq.



George Stanley Guth

Date of Decision: 4-1-96

Date served: 4/3/96