

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Kyle R. Brown

95-01338

Name of Respondents

Fred Devereaux, Jr.  
J.B. Oxford & Company

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on March 16, 1995, Claimant, Kyle R. Brown, who appeared Pro Se, alleged that Respondents, Fred Devereaux, Jr. ("Devereaux") and J.B. Oxford & Company ("JBOC"), made misrepresentations and mis-managed his account. Claimant further alleged that on September 16, 1994, he sent his initial investment of \$12,280.00 to Respondent, Devereaux, a representative of Respondent, JBOC. Claimant contended that on November 23, 1994, he discovered that Respondent, Devereaux, had not been canceling discretionary trades which he said he was canceling and had been mis-managing his account. Claimant further contended that by November 23, 1994, his account balance had declined to \$2,846.76. As a result of the above, the Claimant alleged that he has suffered a loss for which the Respondents should be liable.

Respondent, J.B. Oxford & Company, through its representative and in-house counsel, Scott G. Monson, Esq., of Beverly Hills, CA, maintained that upon opening his account, Claimant checked off Growth and Speculation, as his investment objectives. Respondent, JBOC, further maintained that it does not permit Discretionary Accounts, and confirms every transaction in writing to the customer. Respondent, JBOC, contended that at no time throughout the two months of activity did Claimant notify JBOC of unauthorized transactions in his account nor did he inform JBOC that his broker was taking discretion in his account in the absence of a Discretionary Account Agreement. Respondent, JBOC, further contended that at no time did the Claimant object to the management of JBOC regarding outrageous claims he alleges were made by Respondent, Devereaux. As a result of the above, Respondent, JBOC, maintained that it should not be held liable for Claimant's loss.

Respondent, Fred Devereaux, Jr., did not file an Answer to the Statement of Claim.

**RELIEF REQUESTED**

Claimant, Kyle R. Brown, requested \$9,486.24 in actual damages.

Respondent, J.B. Oxford & Company, requested that the claims of the Claimant be dismissed.

Respondent, Fred Devereaux, Jr., did not file an Answer to the Statement of Claim.

**OTHER ISSUES CONSIDERED & DECIDED**

In accordance with Section 13 of the NASD Code of Arbitration Procedure, the Respondent, Fred Devereaux, Jr., was served by regular mail and given an opportunity to respond, which he failed to do.

Pursuant to the By-laws of the NASD, the Arbitrator determined that Respondent, Fred Devereaux, Jr., had notice of the claim, and was required to submit to this arbitration proceeding; and is, therefore, bound by the arbitrator's ruling and determination.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Andrew N. Carnell, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant, Kyle R. Brown, on March 3, 1995, and by the Respondent, J.B. Oxford & Company, on June 8, 1994. The Respondent, Fred Devereaux, Jr., did not file a Submission Agreement as required pursuant to sections 12 and 13 of the NASD Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents, J.B. Oxford & Company and Fred Devereaux, Jr., are jointly and severally liable and shall pay to the Claimant, Kyle R. Brown, \$9,486.24 in actual damages.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, Kyle R. Brown, shall be retained by the NASD, Inc.

Affirmation

STATE OF NY

} SS:

COUNTY OF ALBANY

I. ANDREW N. CARNELL, do hereby affirm upon my oath  
as arbitrator that I am the individual described in and who executed this instrument,  
which is my oath and award.

Andrew N. Carnell  
Signature of Arbitrator

DATE OF DECISION: October 2, 1995