

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Theodore J. and Cheryl L. Fick

95-03815

Name of Respondents

Oxford Discount Brokerage  
Robert R. Forker

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on August 8, 1995 Claimants Theodore J. and Cheryl L. Fick ("Claimants"), who appeared Pro Se, alleged that Respondents Oxford Discount Brokerage ("ODB"), and Robert R. Forker ("Forker"), failed to execute a sell order for 1,000 shares of Structural Instrumentation (SSI) to their detriment. Claimants further alleged that on April 18, 1995, ODB advised them that their sell order for SSI had been executed. Claimants contended that shortly thereafter Marilyn Hood of ODB notified them that the trade had not been executed and that due to the "honest mistake" rule the trade would not be recognized. Claimants further contended that Forker indicated that he did not want to set a precedent by honoring the trade and refused to correct the error. Claimants alleged that on May 17, 1995 they closed their account at ODB and as a result of the above, they have suffered a loss for which the Respondents should be held liable.

Respondents Oxford Discount Brokerage and Robert R. Forker, through Robert R. Forker, maintained that the circumstances of the Claimant's complaint were beyond Forker's control. Forker further maintained that he will not voluntarily compensate a customer for an "honest mistake." Forker contended that the Claimants had checked their account and were told that a sale for SSI shares had been executed when in fact it had not been done. Forker further contended that the erroneous information was on the Claimants' account for a very short period so he did not send documentation explaining the error. Forker maintained that he would have informed them of the problem but he was unaware that they had checked the account status while the error was on the computer system. Forker further maintained that Claimants are not entitled to receive the benefit of the trade which never took place simply because they were given wrong information. Respondents contended that as a result of the above, they should not be held liable.

**RELIEF REQUESTED**

*Claimants Theodore J. and Cheryl L. Fick, requested \$1,375.00 in actual damages.*

Respondents Oxford Discount Brokerage, and Robert R. Forker, requested that the claims of the Claimant be dismissed.

**AWARD**

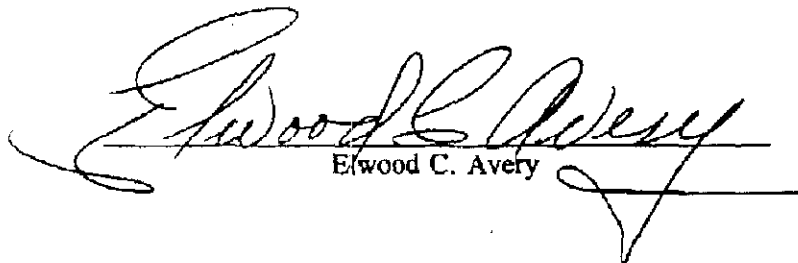
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Elwood C. Avery, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Theodore J. and Cheryl L. Fick, on August 3, 1995, and by the Respondents Oxford Discount Brokerage, and Robert R. Forker, on September 19, 1995.

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. The claims of the Claimants Theodore J. and Cheryl L. Fick, against Respondents Oxford Discount Brokerage, and Robert R. Forker, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Theodore J. and Cheryl L. Fick, shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **ELWOOD C. AVERY**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
Elwood C. Avery

DATE OF DECISION: December 29, 1995