

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Edith Hickey

95-04274

Name of Respondents

South Richmond Securities, Inc.
Rickel & Associates, Inc.
J.B. Oxford & Company

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 7, 1995 Claimant Edith Hickey ("Claimant"), who appeared Pro Se, alleged that she held an account with Respondent South Richmond Securities, Inc. ("SRSI") alias Respondents Rickel & Associates and J.B. Oxford & Company ("JBOC"), and that her account executive, Andrew Grossman ("Grossman"), failed to keep her informed about the status of her account. Claimant further alleged that when she received her September statement for 1994, she called Grossman to request the \$12,375.00 balance in her account. Claimant contended that Grossman talked her out of her request and assured her that he would look after her account. Claimant further contended that she did not hear anything from Grossman and that she did not receive monthly statements for the months of October and November. Claimant further contended that Grossman left Respondent's firm and no one followed up on her account, and further that her account deteriorated, and as a result of Respondents' wrongdoing, she suffered a loss for which they should be held liable.

Respondent Rickel & Associates, Inc. through its representative and Director of Compliance, Vincent P. Sarnatora, maintained that on December 27, 1994, it purchased some of the assets of SRSI, not the liabilities and is not the successor in interest of SRSI. Respondent Rickel further maintained that on December 1, 1995, SRSI and Rickel signed an agreement in which SRSI agreed to assume all liability for actions taken by SRSI and its officers, directors, agents and representatives as of December 26, 1994. Respondent Rickel contended that at the time it acquired Claimant's account, it had already decreased in value by approximately \$5,563.00. Respondent Rickel further contended that during the short period that it maintained Claimant's account, her instructions to sell were followed immediately, and that it has committed no wrongdoing and therefore, it should not be held liable in this matter.

Respondent J.B. Oxford & Company through its representative and counsel, Scott G. Monson, Esq. of Beverly Hills, California, maintained that it did not give any investment advice or information to Claimant with respect to the purchase of her securities or the liquidation of those securities. Respondent further maintained that in February of 1995, Adler Coleman's assets were liquidated, through SIPC, and the liquidation was overseen by Edwin B. Mishkin, Esq., Trustee, and further that, pursuant to the liquidation, it purchased the right to act as the clearing firm, but it was not involved with any transactions which took place prior and during the liquidation. Respondent JBOC further contended that it is not responsible for the transactions of which Claimant complains and therefore, it should not be held liable.

Respondent South Richmond Securities, Inc. failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant Edith Hickey, requested \$7,967.50 in actual damages.

Respondent Rickel & Associates, Inc., requested that the claims of the Claimant be dismissed.

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

Respondent South Richmond Securities, Inc. failed to file an Answer to the Statement of Claim.

CASE SUMMARY

OTHER ISSUES CONSIDERED AND DECIDED

Although reasonable attempts were made, Respondent South Richmond Securities, Inc., was not served with the Statement of Claim.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Michael G. Shannon, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Edith Hickey on August 30, 1995 and by Respondents Rickel & Associates, Inc., on December 12, 1995 and by J.B. Oxford & Co. on February 26, 1996, but not by Respondent South Richmond Securities, as required by 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. The claims of the Claimant Edith Hickey against Respondent Rickel & Associates are dismissed in their entirety.
2. The claims of the Claimant Edith Hickey against Respondent J.B. Oxford & Company are dismissed in their entirety.
3. The claims of the Claimant Edith Hickey against Respondent South Richmond Securities, Inc. are dismissed without prejudice.
4. The parties shall bear their respective costs and attorneys' fees.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondents Rickel & Associates and J.B. Oxford & Co. are liable and shall each pay to the Claimant Edith Hickey \$50.00 as partial reimbursement of the filing fee.

AFFIRMATION

I, **MICHAEL G. SHANNON, ESQ.**, 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.

Michael G. Shannon

Michael G. Shannon

DATE OF DECISION: **April 16, 1996**