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NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Michele Herman

and

NASD Case Number: 95-04577

Name of Respondents

\*Barrett Day Securities, Inc.  
David Feyjin  
Eric Peremen  
Matthew Frederick  
J.B. Oxford & Company, Inc.

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**REPRESENTATION OF PARTIES**

Claimant Michele Herman ("Claimant") was represented by Anthony V. Trogan, Esq. of Weisman, Trogan, Young & Schloss located in Bingham Farms, Michigan.

Respondent J.B. Oxford & Company, Inc. ("J.B. Oxford") was represented by Scott G. Monson, Esq. of J.B. Oxford & Company, Inc. located in Beverly Hills, California.

Respondent Eric Peremen ("Peremen") appeared pro se.

Respondents Barrett Day Securities, Inc. ("Barrett Day"), David Feyjin ("Feyjin"), and Matthew Frederick ("Frederick") did not appear in this matter, and were unrepresented.

**CASE INFORMATION**

The Statement of Claim was filed with the National Association of Securities Dealers, Inc. ("NASD") by Claimant Michele Herman on or about September 26, 1995.

Claimant's Submission Agreement was signed on September 19, 1995.

The Statement of Answer was filed with the NASD by Respondent J.B. Oxford & Company, Inc. on or about December 18, 1995.

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Respondent J.B. Oxford's Submission Agreement was signed on December 18, 1995 by Albert Laubenstein, Director of Compliance of J.B. Oxford & Company, Inc.

The Statement of Answer was filed with the NASD by Respondent Eric Peremen on or about December 4, 1995.

Respondent Eric Peremen's Submission Agreement was signed on December 5, 1995.

The NASD has no record that Respondents Barrett Day Securities, Inc., David Feyjin, and Matthew Frederick filed a Statement of Answer with the NASD. The NASD has no record that Respondents Barrett Day Securities, Inc., David Feyjin, and Matthew Frederick signed a Submission Agreement.

### **HEARING INFORMATION**

The hearing was held on June 3, 1996 for one (1) session. The hearing location was Southfield, Michigan.

### **CASE SUMMARY**

Claimant Michele Herman ("Claimant") alleged that Respondents Eric Peremen ("Peremen"), Matthew Frederick ("Frederick"), and David Feyjin ("Feyjin") were salesmen employed by Respondent Barrett Day Securities, Inc. ("Barrett Day"). Claimant asserted that Respondent J.B. Oxford & Company, Inc. ("J.B. Oxford") was the clearing firm with which Claimant established her account. Claimant contended that she was solicited by Respondents to open a securities account for the purpose of investing in securities recommended by Respondents. Claimant maintained that Respondents induced Claimant to acquire unsuitable securities in large concentrated volumes. Claimant alleged that Respondents failed to make adequate risk disclosures, failed to diversify the products in the account, and made unauthorized purchases and sales. Claimant contended that Respondents lied about the status of her account, acted to confuse Claimant, and failed to provide information concerning the status of the account. Claimant asserted that Respondents sold securities through unregistered and unlicensed brokers. Claimant alleged that the products acquired by Claimant at a cost of approximately \$27,000 are now worth nothing.

Respondent J.B. Oxford denied all liability to Claimant in its Statement of Answer. Respondent J.B. Oxford alleged that Claimant failed to allege any specific activity or involvement concerning or relating to J.B. Oxford. Respondent J.B. Oxford denied that it acted in any way contrary to the normal business practice of a fully disclosed clearing firm, or outside of its contractual commitments.

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Respondent Eric Peremen denied all liability to Claimant in his Statement of Answer. Respondent Peremen denied that he engaged in any types of unauthorized trading. Respondent Peremen alleged that the statement he "lied to the Claimant about the status and products in her account" was completely ludicrous. Respondent Peremen asserted that he was a fully licensed Registered Representative. Respondent Peremen contended that all the information he gave to Dr. Herman was to the best of his knowledge and totally accurate. Respondent Peremen alleged that every thing needed in making an educated decision was provided.

### **RELIEF REQUESTED**

Claimant requested: (1) the award of \$27,000 as out-of-pocket loss; (2) the award of interest at 12%; (3) the award of all costs; (4) the award of actual attorney fees; (5) the award of exemplary and punitive damages; (6) the award of additional damages; and (7) the rescission of all transactions and payment of all monies necessary to make Claimant whole.

Respondent J.B. Oxford requested that any and all claims against it be dismissed and that Claimant reimburse J.B. Oxford its costs, expenses and reasonable attorney's fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

Respondent Eric Peremen's Motion for Postponement made on or about March 8, 1996 was granted.

Claimant Michele Herman dismissed Respondent J.B. Oxford & Company, Inc. from this matter with prejudice prior to the hearing.

Respondent Eric Peremen's Motion for Postponement made on or about May 30, 1996 was denied.

Respondent Eric Peremen's renewed Motion for Postponement was considered prior to the hearing and denied.

Upon review of the file, the undersigned arbitrators have determined that Respondents Barrett Day Securities, Inc., David Feyjia, and Matthew Frederick have not been properly served with the Statement of Claim pursuant to §13 and §25 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondents

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Barrett Day Securities, Inc., David Feyjin, and Matthew Frederick did not receive due notice of the hearing as required under §26 of the Code and that arbitration of the matter would only proceed with respect to Respondents Eric Peremen and J.B. Oxford & Company, Inc.

Respondent Eric Peremen failed to appear at the hearing. Upon review of the file, the undersigned arbitrators have determined that Respondent Eric Peremen had been properly served with the Statement of Claim pursuant to § 13 and §25 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent Eric Peremen had received due notice of the hearing as required under §26 of the Code and that arbitration of the matter would proceed pursuant to §29 of the Code.

The parties present at the hearing have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains 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 Eric Peremen is liable for, and shall pay to Claimant **Michele Herman** compensatory damages in the amount of Thirty Thousand Dollars and No Cents (\$30,000.00), inclusive of interest;
2. Other than forum fees which are specified below, the parties shall each bear their own respective costs and attorney's fees; and
3. Any relief not specifically enumerated is hereby denied.

#### **FORUM FEES**

Forum fees are calculated at the rate of \$400 per hearing session and \$300 per pre-hearing session, if any. There was (1) hearing session x \$400 = \$400. Total forum fees = \$400. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$100 previously deposited with the NASD by the Claimant. The NASD shall refund the hearing session deposit in the amount of \$400 previously deposited with the NASD by the

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Claimant. The NASD shall retain the Section 45 Member Surcharge assessed to Respondent J.B. Oxford & Company, Inc. in the amount of \$200.

Respondent Eric Peremen is liable for and shall pay ~~forum~~ fees in the amount of \$400.  
Respondent Eric Peremen is liable for and shall pay the adjournment fee in the amount of \$400.

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

**Concurring Arbitrators' Signatures**

vs\ Barry Goldman, Esq.  
Barry Goldman, Esq.  
Chairperson  
Public Arbitrator

July 3, 1996  
Dated:

vs\ Robert J. Scafuri  
Robert J. Scafuri  
Panelist  
Public Arbitrator

July 8, 1996  
Dated:

vs\ Russell G. Mann, Jr.  
Russell G. Mann, Jr.  
Panelist  
Industry Arbitrator

June 26, 1996  
Dated:

For NASD use only:  
Date award served on the parties: July 18, 1996