

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Gerald Sherwin

96-03191

Name of Respondents

J.B. Oxford & Company
Ali Aboukinane
Julian Guilarte
Richard A. Wright, II
Jose M. Abadin
Shane Khubchandani

REPRESENTATION

For Claimant: Stephen Murphy, Esq., of the law firm of Pino & Dicks, P.A., Longwood, FL.

For Respondents: Cynthia M. Schleindl, Esq., of the law firm of Miller, Milove & Kob, P.C., San Diego, CA.

CASE INFORMATION

Statement of Claim filed: July 22, 1996.

Claimant's Submission Agreement signed on: May 20, 1996.

Joint Statement of Answer filed on: October 25, 1996.

Respondent J.B. Oxford & Company's Submission Agreement signed on: October 9, 1996.

Respondent Ali Aboukinane's Submission Agreement signed on: September 18, 1996.

Respondents Julian Guilarte, Richard A. Wright, II, Jose M. Abadin, and Shane Khubchandani did not submit their executed Uniform Submission Agreements as required by Rules 10301 and 10314 of the Code of Arbitration Procedure.

HEARING INFORMATION

On November 26, 1996, a telephonic pre-hearing conference lasting one session was conducted with the arbitration panel.

On May 6, 7, 8, 1997 hearings lasting six (6) sessions were conducted in Tampa, Florida.

CASE SUMMARY

Claimant alleged that Respondents traded Claimant's securities account in an unsuitable and excessive manner and failed to follow instructions given to them by Claimant.

Respondents denied each and every allegation in the Statement of Claim and alleged that Claimant was an educated and experienced investor who acknowledged in writing that he understood and accepted the risks in actively trading his account.

RELIEF REQUESTED

Claimants requested compensatory damages in the sum of \$278,000.00 plus interest, costs of arbitration, attorneys' fees, punitive damages in the amount of \$100,000.00, and such other relief as the arbitrators deemed appropriate.

Respondents requested that any and all claims be summarily dismissed and that they be awarded their costs to defend this arbitration and such other relief as the arbitrators deemed just and proper.

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) The Claimant's Statement of Claim is dismissed.
- 2) The Claimant's request for punitive damages is denied.
- 3) The parties' requests for attorneys' fees, expenses and costs are denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the Panel has assessed Forum Fees in the amount of \$5,250.00 (one pre-hearing conference with the full panel x \$750.00 plus six hearing sessions x \$750.00).

- 1) Claimant is hereby assessed \$5,250.00 for which National Association of Securities Dealers Regulation, Inc. shall retain the hearing session deposit of \$750.00 previously deposited by the Claimant in partial satisfaction thereof leaving a balance due of

\$4,500.00.

- 2) The National Association of Securities Dealers Regulation, Inc. shall retain the \$200.00 filing fee previously paid by the Claimant.
- 3) The National Association of Securities Dealers Regulation, Inc. shall retain the \$350.00 member surcharge previously paid by the Respondents.

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

Concurring Arbitrators' Signatures

Public/Industry

/S/

Public

David A. Townsend, Esq.
Chairperson

/S/

Industry

Scott A. Spencer

/S/

Public

Donald M. Macdonald

6/27/97

Date of Decision: _____