

AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the Matter of the Arbitration Between

Name of Claimant

Willie A. Larks

96-04044

Name of Respondents

Edward Dorr;
J.B. Oxford & Co.

REPRESENTATION

For Claimant: Willie A. Larks ("Larks") was represented by Anthony J. Hom, Esq. of Philadelphia, Pennsylvania.

For Respondent: J.B. Oxford & Co. ("JBOC") and Edward Dorr ("Dorr") were represented by Jeffrey Kob, Esq. of Miller Milove & Kob, located in San Diego, California.

CASE INFORMATION

Statement of Claim filed: September 11, 1996.

Claimant's Submission Agreement signed on: October 4, 1996.

Statement of Answer filed by Respondent JBOC and Dorr on: January 2, 1997.

Respondent, J.B. Oxford & Co. and Dorr did not file executed Submission Agreements.

HEARING INFORMATION

Pre-Hearing Conference: None Held
Hearing Date/Sessions: April 2, 1996 for Two (2) sessions.
Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimant Larks alleged that Dorr, while employed by or acting as an agent for Respondent JBOC, had misrepresented his position as a broker and engaged in the unauthorized purchase of approximately 10,000 shares of MUCP Stock. Larks specifically alleged that:

1. As a result of JBOC advertising, Larks opened an individual cash account with no power of attorney on February 29, 1996;

2. Dorr contacted Larks and advised that he was in charge of Larks' service needs. Larks told Don he was an active trader and would need a broker on a daily basis;
3. On May 15, 1996, Larks learned his account had 10,000 shares of MUCP which he did not buy or authorize the purchase. Dorr stated he would investigate, but one week later called Larks and advised that he had made a big mistake in the account;
4. Larks contacted JBOC's home office. He found out that his account had been frozen for three months and that Dorr was not a registered representative, even though he had represented himself as one; and
5. JBOC sold the shares of MUCP without Larks' knowledge or authorization for a \$48,000.00 loss.

As a result of the above allegations, Larks asserted claims for common law fraud; breach of fiduciary duty; negligence; breach of contract; violation of the Federal Securities Laws; and failure to supervise.

Respondents denied the material allegations of the Statement of Claim, asserting several affirmative defenses, including the following:

1. Claimant fails to state a cause of action against Respondents;
2. The claims are barred by the applicable statute of limitations, and by the doctrines of waiver, laches, estoppel, ratification, unclean hands and in pari delicto;
3. Any loss sustained by the account was the result of actions by Claimant, market conditions, parties other than Respondents, or other factors beyond the control of Respondents; and
4. Claimant has failed to mitigate his damages.

RELIEF REQUESTED

Claimant requested entry of an award for \$48,000.00 in compensatory damages plus interest from the date the losses were incurred to the date of hearing, plus attorneys' fees, costs and any other damages the panel deemed fair.

Respondents requested that the claims be dismissed and that Claimant reimburse the costs, expenses and reasonable attorneys' fees incurred in defending this action.

OTHER ISSUES CONSIDERED & DECIDED

Respondents did not file executed submission agreements, but are required to submit to arbitration pursuant to Section 10301 of the Code of Arbitration Procedure.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The claims submitted by Claimant Willie A. Larks are dismissed with prejudice and denied in the entirety;
2. The parties shall bear their own costs of arbitration, including attorneys' fees, except for those specifically enumerated herein; and
3. Any relief not specifically awarded is hereby denied.

OTHER COSTS

The NASD Regulation, Inc., Office of Dispute Resolution shall retain the \$200.00 member surcharge paid by Respondent J.B. Oxford & Co. pursuant to Section 10333 of the Code of Arbitration Procedure.

FORUM FEES

Pursuant to Section 10332(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:
Two (2) hearing sessions x \$400.00 per session = \$800.00.

The NASD Regulation, Inc., Office of Dispute Resolution shall retain the non-refundable claim filing fee of \$120.00 and shall retain as forum fees the \$400.00 hearing session deposit previously paid by the Claimant, Willie A. Larks. The NASD Regulation, Inc., Office of Dispute Resolution shall refund to Claimant Willie A. Larks the balance of \$130.00 remaining in his account. Respondents J.B. Oxford & Co. and Edward Dorr are jointly and severally liable for and shall pay to the NASD Regulation, Inc., Office of Dispute Resolution the sum of \$400.00 as forum fees.

Arbitrator's Signature
Name

Date

/s/ Michael J. Koenigsknecht, Esq.
Michael J. Koenigsknecht, Esq.
Public Arbitrator/Chairperson

July 25, 1997

/s/ Judd A. Sackheim
Judd A. Sackheim
Public Arbitrator

July 28, 1997

/s/ Sanford J. Prizant
Sanford J. Prizant
Industry Arbitrator

July 28, 1997